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International Court of Justice

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OFFICIAL TRANSCRIPT OF THE INTERNATIONAL MILITARY TRIBUNAL IN THE MATTER OF THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE UNION OF SOVIET SOCIALIST REPUBLICS AGAINST HERMANN WILHELM GOERING ET AL, DEFENDANTS, SITTING AT NURNBERG, GERMANY, ON AUGUST 7, 1946, 1000-1700, LORD JUSTICE LAWRENCE PRESIDING.

THE PRESIDENT: Yes, Dr. Pelckmann.

GUENTHER REINECKE -- Resumed
DIRECT EXAMINATION -- Continued

BY DR. PELCKMANN (Counsel for SS):

Q Mr. Witness, before passing on to the new subject which I will deal with in my questions, I have one more question which refers to the examination carried on yesterday. On the occasion of the submitting of a document originating from a cavalry brigade of the SS. I was afraid, as I gather from certain statements, that this brigade might be mixed up with the cavalry storm troops of the General SS. I draw the attention of the High Tribunal, in this connection, to the testimony given by witness von Boikowski-Bidau before the Commission and I merely beg to be allowed to ask this witness in which way the cavalry troops of the General SS differ from the formation which I have just mentioned.

A Cavalry storm troops of the General SS were special units of the General SS just as, for instance, the motor storm troops of the General SS were. They had nothing whatever to do with the later cavalry units of the Waffen SS which were not built up on the strength of these cavalry storm troops.

Q Here in this Courtroom a dreadful moving picture has been shown describing the atrocities in concentration camps. It has been alleged by the Prosecution that the conditions were the outcome of a consequent policy of the SS. Can you, as a high ranking judge, define your attitude with reference to that allegation? Did the legal system of the SS, for instance, gain knowledge of these events, and if so, did it remain silent?

A As far as the consequent policy of the SS with reference to the atrocities as to conditions shown in these pictures, there can be no question whatsoever. In concentration camps frightful cruelties were committed but the film showed the outcome of the total collapse of the German Reich and its influence upon concentration camps. That means that it does not represent their

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normal condition. Normal conditions were absolutely different. I can certainly pass judgment on that point because the legal system of the SS and the police was using all means at its disposal.

THE PRESIDENT: Is the witness speaking from personal observation of the concentration camps?

DR. PELCKMANN: Yes, Mr. President, he is just about to explain that.

THE WITNESS: I can pass judgment on that subject because the legal system of the SS and the police was using every means at its disposal, sometimes even overstepping its own authority to stop these cruelties by legal means. We had investigating commissions in these concentration camps who reported to me repeatedly about the conditions in the camps.

If the legal system of the SS and the police had been in a position to take steps against such conditions then that was only so because here we were not concerned with a constant policy of the SS but with criminal perpetrations of individual persons and small groups and also individual highly placed superiors but these were not committed by the SS as an organization. In order to fight against these crimes and in order to clean the SS of such criminal elements the legal system became active.

DR. PELCKMANN: I am going to quote from a document already submitted by the Prosecution. It is the Prosecution document E-168.

It is a letter from the SS Economic Central Administrative Department, Sub-department for Concentration Camps, reference (b), your Honor. We are concerned here with instructions given to the first medical officers in concentration camps.

THE PRESIDENT: What is the document?

DR. PELCKMANN: It is a document already submitted by the Prosecution E 168 and it is in the official document book

THE PRESIDENT: I cannot hear what the reference is. Is it "D", dawn or "G"?

(The Interpreter: "E", easy -- 168).

THE PRESIDENT: What is the exhibit number?

DR. PELCKMANN: Unfortunately I am not in a position to tell you at the present time. I beg to apologize.

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In that document, it says amongst other things:

"With such a high death figure the number of detainees can never be brought to the level demanded by the Reichsfuehrer SS if death figures are as high as this. The first medical camp officer must use every means at their disposal in order to reduce the death rate in the various camps to a considerable extent. It is not the best medical officer in a concentration camp who believes that by undue hardship he must stand out. The best medical officer is the man who, by means of supervision and exchange at the various places of work, achieves the figures which are as high as possible.

"Medical officers in the camps should supervise the feeding of the prisoners more often than before and with the approval of the administration they should submit suggestions for improvements to the camp commandant. Naturally they must not merely be on paper but camp medical officers should check them regularly. Apart from that, the medical officers ought to see to it that the working conditions at the various places of work should be improved as much as possible. It is necessary for that reason that medical officers should inspect the places of work thoroughly and convince themselves as to the working conditions.

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"The Reichsfuehrer SS has ordered that the death rate must be reduced at all costs."

THE PRESIDENT: Didn't you understand that we don't wish to have -- Can't you hear ?

DR. PELCKMANN: Yes.

THE PRESIDENT: The Tribunal has indicated to the Prosecution they don't want to hear these documents read which have already been put in evidence, and there you are reading every word of this document.

DR. PELCKMANN: Very well, Mr. President.

THE PRESIDENT: If you have a question to put upon it, you may

DR. PELCKMANN: Yes, I understand, Mr. President.

BY DR. PELCKMANN:

Q. Did you, Mr. Witness, know anything about the question whether such orders were actually obeyed in concentration camps ?

A. The investingating commission of the Chief Department of the Legal System of the SS had repeatedly confirmed to me during personal reports that such orders were in fact put inot practice inside the camps. They reported to me that the accomodations, the hygiene, the medical supervision and the feeding and also the treatment of the detainees was good in most parts. The same applied to the physical appearance of the prisoners. They also confirmed that the strict prohibition of ill treatment of detainees was repeatedly make known in the camp, and was, in fact, observed.

The picture of concentration camps in their normal state is, therefore quite a different one seen from outside. The cleanliness and the development of the working program without friction becomes apparent.

If crimes were committed in concentration camps, they then occurred in such a manner that they remained hidden from the outside world, even from the inmates of thecamp in fact, and as far as they were not participating in them, they could not have observed them.

THE PRESIDENT: Are you saying that you personally received this letter or that you had these facts before you ?

WITNESS: From these investigating commissions I received reports which

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were put before me personally, and from these reports I was able to gather the facts which I have just stated.

THE PRESIDENT: Well then, you knew in December 1942 that 70,000 arrivals in concentration camps, out of 136,000, had died did you ?

WITNESS: No, that wasn't known to me at the time. I shall have to supplement my testimony by statihg an answer which was to occur in connection with a later question, namely that the Chief SS Court only dealt with these investigating commissions during the second half of 1943 in order to discover crimes committed in concentration camps.

THE PRESIDENT: I thought you said in answer to my question, "These facts were known to me."

Go on, Dr. Pelckmann.

DR. PELCKMANN: In this connection, I draw the attention of the Tribunal to supplement the Tribunal's knowledge to my affidavit SS No. 65 to 67 which in its entirety, and in accordance with my application, has been translated. It was submitted by a judge who led these investigations, and it reports numerous further details.

BY DR. PELCKMANN:

Q. To what extent did the legal system of the SS operate the legal system in concentration camps ?

A. Jurisdiction of the legal system of the SS did not include detainees in concentration camps. Responsibility for those was entirely under the ordinary German legal system. To a certain extent the proceedings did come under the SS legal system, even concerning political section who were in concentration camps. This is subject to the fact that the investigating department of the RSHA would havepreference in tis connection. Guards and members of the Kommandant staff in concentration camps came under the jurisdiction of the legal system to its full extent and to the extent of courts martial.

Q. You have already mentioned, Mr. Witness, that the prosecution of crimes in concentration camps began in 1943 as far as the legal system of yours was concerned. When in 1943 ?

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A. It was during the second half of 1943. It was then that the legal system on the occasion of a case of corruption against the former camp commandant Koch, found traces of crimes which had been committed in other camps. It was from that moment that the legal system became active.

Q. Then how is it that the legal system became operative so very late ?

A. There were so-called legal officers attached to concentration camps. They were carryong out supervisory activities. These legal officers, who were the instruments of the judges in question, had the task in connection with any crimes that might occur to produce so-called reports of evidence. These reports were then submitted to the courts in order to enable them to prosecute the crimes.

THE PRESIDENT: I don't think he gave an answer to your question at all. Your question was : How was it that it was so late as the second half of 1943 that these investigating commissions began to become active ? He didn't answer that question at all.

DR. PELCKMANN: Your Lordship, the witness hasn't quite finished. I was merely putting an intermediary question. In his further reply it will become quite clear. I merely have an intermediate question.

BY DR. PELCKMANN:

Q. Did these legal officers come under your jurisdiction in the Chief Department of the SS legal system, or the SS legal system generally, or under whose jurisdiction did they come ?

A. The legal officer did not come under the organization of the legal system but he was an official of the Supreme Judge, in whose hands there were the investigations.

Q. Well then, who was that in concentration camps ?

A. In the case of concentration camps, it was in the hands of Oswald Pohl who was mentioned yesterday.

Q. Now, will you please continue to answer the question. How did it happer that the legal system learned of the atrocities so late ?

A. The reason was that earlier the legal system hadn't had any suspicions, and that in turn was due to the fact that these legal officers, during the

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years until 1943, were continuously supporting such reports on evidence to the courts. These reports on evidence were worked out most exactly. In the case of any unnatural deaths of detainees, they contained photographs of the place of the crime, medical reports, statements from witnesses, both detainee and guards, and that work was carried out with such exactness that the suspicion couldn't arise that here, behind the backs of these legal officers, crimes could have been committed.

These evidence reports which were submitted led to a judicial sentence against the criminal in evert case, and such sentences continued throughout all the years.

Q. Might not the evidence reports have been forged, and might not the actual conditions have been covered up in that manner ?

A. That is partly the case. I have just said that during the second half of 1943 we commenced with investigations in the camp of Buchenwald. In 1941 we had carried out such an investi ation in Buchenwald, which, howeve had no result.

During the later investigation, in 1943, it was in fact discovered that in 1941 the Kommandant, Koch, had used forged reports, forged witnesses and forged medical reports which had deceived the investigating judges. Then we carried out investigations in other camps, and on that occasion we discovered that in other camps these evidence reports had been in order.

Q. Now will you please describe to us the further advances made by the SS legal system against crimes in concentration camps.

A. The traces and clues in the camp of Buchenwald were manifold and they led us to many camps. The subject was growing from month to month. It was discovered that the organizations who were carrying out investigations on beh of the legal system were utterly unsuitable for carrying out such a purely criminal investigation. It was because the legal system, characteristic for a military legal system, lacked the fundamental structure and that was an authority capable of carrying out criminal prosecutions.
For that reason, judges, were sent to short courses, receiving criminal training and simultaneously, in collaboration with the RSHA, experts from the

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Reich Criminal Police Department were brought into the investigation of these crimes.

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Such commissions were attached to many camps, and they were working continuously until the collapse. The Chief Department of the SS Legal System as such created a special court for special purposes which had almost exclusively the task of dealing judicially with these crimes committed in concentration camps. In the Chief Department of the SS Legal System, which was the central directing department of the legal system, a special chief department was created from which investigations which were going on in concentration camps were supervised centrally. And the task of the Chief Staff Legal Department was taken over by this department.

Q. Now, in order to summarize briefly, what was the outcome of the fight against crime in concentration camps by the SS legal system?

A. Altogether, approximately 800 cases were investigated. Four hundred of these eight hundred cases began by coming into the court and 200 out of those 400 were dealt with by a judicial sentence. Among the cases under investigation there were proceedings against five commandants of concentration camps, proceedings against two commands to be completed; and a death sentence by shooting was passed.

Q. Did your commission encounter any difficulties on the occasion of these investigations?

A. The most considerable difficulties were put in the way of these commissions. These difficulties originated with Kolb, who was using every means at his disposal and all his power to prevent any further advances from being made by these investigating commission, advances into the actual material of the nature of the crimes. In that matter, the Legal System, after being unable to make any advances, and having to loosen every peice of evidence from the secrecy of the matter, was forced to work together with detainees. In almost every camp such commissions were active. There were confidence men who were recruited from among the detainees, who were submitting material to the investigating judges. But then it was equally difficult to get these detainees to cooperate, because if their activities were afraid of being destroyed.

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Q. But could you not then remove these obstacles by means of reports, say for instance, reports made to Himmler -- Pohl, as far as I know, was directly subordinate to Himmler -- so that Himmler could have given him corresponding orders?

A. Pohl did not act as cooperatively as that. As far as these matters were concerned, he acted as if he were supporting the investigating work of the legal system with all his force, exactly as if he were in favor of it; and it was in that manner that he reported the matter to Himmler. After we pointed out to Himmler the somewhat doubtful role played by Pohl, in reality Pohl was combatting with all the means of his tremendously powerful position the investigations we were making, and he was working with the detainees hand in glove, as we have proved on the strength of theevidence.

In order to show you one outstanding example, I will tell you that in 1941, when our first investigation took place in the concentration camps at Buchenwald in that field, as I have described, he wrote a letter to the camp commandant Koch, which I have read myself. The contents of the letter were the following:

"I shall use all the power of my position to protect you if once again an unemployed lawyer is fixing his henchmen's hands towards your immocent white character."

Pohl continued to act in that manner, because he was not only caught up in the death machinery of the concentration camps, but to a similar extent he became the most corrupt person in the entire Reich, something of which we found evidence towards the end of the war, evidence which we obtained through various proceedings against organizations which he headed in private business. As head of that criminal clique, he actually brought it about with the French that the system of confidence men among the detainees should be destroyed, a system which he knew might endanger his own person.

One of our confidence detainees in the camps of Sachsenhausen by the name of Rote was lock up by his orders, and by means of an order from the RSHA, the Reich criminal police department, which he was trying to bring

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about, this detainee was to be hanged publicly before the detainees who were to be lined up, which would serve the purpose of setting an example and also to make it impossible to carry out the investigating work by the Legal Syste

Q. Will you go more slowly, witness? These are important statements, and the translating of them is not simple.

A. One of the investigating officers working for us noted these facts i due time, and he was able to prevent this action by Pohl at the last moment. That was how this criminal Pohl was acting. The most important support in hi fight against the Legal System was the Fuehrer Order No. 1, about secrecy, however, which was visible in every department of the SS machinery. It was according to that order that the matters which were to be kept secret could only be communicated to such persons as were immediately concerned, and even those could be told only as much as they had to know. And even that applied only to the period during which the particular individual was acting.

Everything in concentration camps was secret; only with special passes and authority was it possible to enter them. The work carried out by detainee was secret, supposedly because they were producing "V" weapons. The existenc of the detainees was secret, supposedly for reasons of counter-intelligence. The correspondence was headed, "Secret Reich Matter", and for that reason it could not be looked at all. For years Pohl could hide himself behind this, and it was thus that the progressive Legal System would only gain ground step by step if on the strength of individual perpetration he was cornered system-atically.

Q. Then, Mr. Witness, do you believe that with the results that you have just described, the actual existing extenf of crimes would be gotten at by you, the extent of which we have heard during this trial?

A. As I know it today, no. And the reason for that is this. The Legal Systems of the SS or police were dealing with all these crimes as individual crimes, and the system of criminality as it is recognizable today could not be penetrated for a number of years.

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When toward the end of 1944 the Legal System had succeeded in tracing down the criminal Pohl and the criminal Gawitz, and Mueller, from the Gestapo, who was covering up the crimes, to corner these people on the strength of individual evidence, it was the first time these men referred to an "order from above". The investigation which now commenced, carried out by the legal system, went down during the collapse of Germany's resistance towards the end of the war.

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Q Did you, towards the end of 1944, get anywhere near the actual complex of criminally mass exterminations?

A It was clear at the end of 1944 that orders from above had to be in existence, but that they were concerned with mass extermination to a tremendous degree wasn't recognizable even then.

Q Who, according to the outcome of your investigation which you have just described, was responsible for the crimes which had become known?

A Of the highest superiors, Pohl, and next to him the former chief medical officer of the SS and Police, Grawitz, and next to him the Chief of the Gestapo, Mueller. Over and above that, Commandants of concentration camps, members of the Commandants' Staff, medical officers in concentration camps, and to a very considerable degree, criminal detainees in the concentration camps.

Q Would it therefore be correct to say that all members of the sections of persons which you have just mentioned participated in the crimes without any difference?

A No, that isn't right. The investigations which we carried out proved clearly that certain camps were perfectly in order, that not every commandant was a criminal and that many members of the commandants' staffs knew nothing about crimes. The same applied to medical officers, but that most of all the guards in concentration camps had nothing whatever to do with the crimes because they themselves were unable to gain insight into the events inside concentration camps.

Q Earlier you dealt with the case of the concentration camp commandant of Buchenwald, whose name was Koch. He has already been mentioned in this court room. Sometime earlier the prosecution had alleged, with reference to an examination of the detainee called Blaha, that Koch had been sentenced for embezzlement and the murder of three detainees. The way the prosecution described the situation was that at that time the SS court had simply bypassed the numerous remaining cases of killings. Is that correct, as far as you know?

A No, that is not correct. The source of the proceedings against Koch was a case of corruption, which was yet another reason why he was sentenced to death. The actual contents of the findings against Koch and the reason for

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his being sentenced to death was the system of murder invented and pursued by Koch in many cases. This type of findings had to be chosen because so many crimes committed by Koch were on record committed very recently whereas traces had been eliminated so that it would have taken many months, in fact years, if these individual cases had been cleared up -- if they could have been cleared up at all. It was for that reason that we were acting, using the shortest possible evidence, in order to stop Koch's activities at once, and it was for that reason that these three cases were taken up, being typical. He was sentenced, however, because of the system of murder adopted in the concentration camp of Buchenwald.

DR. PELCKMANN: The testimony of this witness about these events is supported by the affidavits SS 65, 64, 66 -- I beg your pardon -- yes, 66, 67, 68 and 69. Please, would you be good enough to strike off 68; 68 does not apply; 64, 65, 67 and 69. These affidavits come from the investigating judge. The investigating judge, Dr. Morgen, ought to appear here as a witness. Unfortunately, it was only at the beginning of July that he arrived, just before the hearings before the Commission were terminated, and I haven't been able to prepare him in time for his examination. I have submitted his affidavit, however, and the High Tribunal will no doubt be able to judge whether it might possibly be necessary to hear this man as a witness since we are here concerned with the most important matters.

BY DR. PELCKMANN:

Q What was Himmler's attitude with regard to these investigations?

A When the crimes were discovered at Buchenwald, at the end of 1943, Himmler was given a report on the matter at once. Himmler was currently kept informed about the progress made by the proceedings. Himmler displayed considerable activity. He himself ordered that the investigation was to be carried out in the strictest manner. It was only with his authority that it was possible to as much as pass through the gates of concentration camps. In the middle of 1944, an order to the contrary from Himmler suddenly appeared. He, as supreme judge of the SS Legal System, ordered that the proceedings against Koch should bring to an end any judicial investigation inside concentration camps. Koch would be sentenced to death and he would be

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publicly hanged before the detainees. Pohl was to direct the hanging personally and he would speak appropriate words to the guards, whowould fall in. The remaining perpetrators would report their crimes voluntarily and in the event of such a voluntary report he might possibly reprieve them. Anyone not reporting in time could only expect death through judicial sentence. The chief of the main department of the SS legal system rejected this order from Himmler. He did not, however, achieve a final decision from Himmler, but Himmler tolerated it in the future that further proceedings were thrown out. The chief department of the SS legal system intentionally did not yet complete the case against Koch at that moment in order to have the possibility of extending the investigating activities to other camps, something which was actually achieved. The commissions from the criminal police department, whic' was withdrawn already on the strength of Himmler's orders, once more became active, and from the autumn of '44 further investigations were carried out on the broadest basis. Orders which were necessary for the purpose encountered Pohl's continuous resistance and they were issued, therefore, by the personal judge of the Reichsfuehrer, and that man not even Pohl succeeded in bypassing.

DR. PELCKMANN: The details of this dramatic play between Pohl, Himmler and the SS legal system are also described in Dr. Morgen's affidavits.

Q Did you, Mr. Witness, discover measures, in the course of these investigations, or ordersfrom Himmler or Hitler regarding the biological extermination of Jewry?

A No. We neither ever saw such orders nor did we ever succeed, on the strength of our investigating work, to get hold of them or to gain knowledge of them in any other manner. Such incredible orders were unimagined to us. Himmler had always shown us his ideal fact, cleanliness, decency, fight against crime at all costs. At the end of 1943 he told me personally, on the occasion of a report, that he was confirming these principles expressly. That a system of mass extermination could exist here was an idea which, considering the existing circumstances and situations, no one could possibly think upon. In concentration camps we found incredibly horrible conditions and we learned certain matters which had shaken us, but that thought did not exist. Names like Hoess and Eichmann did crop up during our proceedings and

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proceedings were, in fact, instituted against both, which at the end of the war were still in their initial stages; but Hoess and Eichmann were names, as far as we were concerned, just like Brown or Jones. No one could possibly expect that behind these men there were hiding the henchmen of a dreadful system of extermination. When, at the end of '44 and the beginning of '45, we were approaching the actual extent of crimes in concentration camps somewhat more closely, when we discovered that crimes were being carried out by order, this system of defense between Pohl, Mueller and Grawitz still appeared incredible, because if actual orders from above had been available and carried out by these three persons, then it would have been easy for them, no doubt, to go to Himmler and to demand the exclusion of the legal system from these matters.

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It was that we ourselves, in spite of the painfully achieved results of our investigation, did not have any judicial way of proving that mass exterminations on a large scale, not to mention the biological extermination of Jewry, were and had been carried out before realizing that they were crimes to a frightful extent. They were being investigated from the point of view of individual perpetrators.

Q There is in existence a pamphlet issued by the CIC Central Department, by a Colonel Quinn (Q-u-i-n-n). It is called " SS in Dachau". Unfortunately I cannot put it before the Tribunal at this time because I had to return to the library but it is generally known. It contains testimony given by a ....

THE PRESIDENT: You could have taken a copy of the document. You cannot tell us what the document is if you cannot produce it. The fact that it had to go back to the library is no reason why you don't have it. There would have been no objection to your bringing a copy of it.

DR. PELCKMANN: May I attempt to present it after the recess, Mr. President?

THE PRESIDENT: Yes, if you would like to.

DR. PELCKMANN: It contains further....

THE PRESIDENT: We do not accept from you what it contains.

DR. PELCKMANN: In that case I shall postpone that question.

BY DR. PELCKMANN:

Q Mr. Witness, evidence has been submitted to this Tribunal about the gas chambers at Auschwitz and other places where millions of Jews were murdered. You, on the other hand, discovered, during your investigation, that individual persons and a small circle of persons were committing the crimes which you have described. Is it possible, on the strength of your personal knowledge, that this same, considerably small circle of persons, could be responsible for the destruction of millions?

A Yes. Investigation of the SS legal system, and particularly the final stages of the investigation just before the end

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of the war, proves conclusively responsible for these matters too. Otherwise, these incredible matters could not possibly have escaped the notice of the legal system.

Q Did you gather, from your conversations with Dr. Morgen any further knowledge which might support these assumptions?

A Dr. Morgen was one of my subjects. During the entire years that he was attached to the Reich Criminal Police Department he was handling investigations of concentration camps. Dr. Morgen has considerable knowledge, as I know today that he has talked to those carrying out these mass exterminations, and he gained the deepest insight into all these matters. He proved the fact that the origin of the exterminations of Jews cannot be found in the SS, but in the Chancellory of the Fuehrer.

THE PRESIDENT: I understood from you that you were putting in two affidavits from Dr. Morgen, is that right?

DR. PELCKMANN: Three, even three, Mr. President.

The president; Three - five, if you like, but this witness cannot tell us what Dr. Morgen says. Dr. Morgen must speak for himself from this affidavit.

DR. PELCKMANN: In that case, perhaps I may have permission to come to this when I submit the affidavits.

BY DR. PELCK MANN:

Q It is alleged by the Prosecution, however, that we are here not concerned with perpetrations by the individual, but the carrying out of the Party program regarding the Jewish questions and these crimes at Auschwitz. What can you say, based on your own knowledge and experience of fighting these crimes and regarding this subject?

A I have just said that Himmler showed his ideal faith in the SS and that ideal faith was that whihc the member of the SS would see as one who carried out the Party program. Hitler's order for the biological extermination of Jewry, as I know it today.....

THE PRESIDENT: He said that over and over again, that

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Himmler showed his ideal faith in the SS. He said it before, you know. He should not have to say it more than once.

DR. PELCKMANN: May I not ask him what his attitude is regarding the allegations of the Prosecution about these matters and the extermination of Jews in Auschwitz? Also about the immediate outcome, so far as the members of the SS were concerned, of the principles which the SS were taught.....

THE PRESIDENT: How can he give evidence about that? He can tell us what he saw and what he did. He hasn't told us yet whether he has ever been in the concentration camps.

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BY DR. PELCKMANN:

Q Mr. Witness, did you know anything about the Einsatzgruppen and Einsatzkommandos of the Security Police in the East as they have been mentioned here in this trial?

A I know nothing of that. I know that the Security Police were stationed in the operational zone in the East and they were carrying out security measures. That happened to be the task of the Security Police. In that connection the Security Police never gainedknowledge of any other matters and it was only here that we heard about these matters for the first time.

Q Did members of the Waffen SS have the possibility of leaving the SS if the task whichthey were given, or existing orders, did not appeal to them?

A Such a possibility did not exist at all. Duty in the Waffen SS was military duty, recognized and regulated by law. Even those members of the Waffen SS who had joined as volunteers became inducted into the compulsory service when the law changed. Resigning from the Waffen SS was therefore only possible by means of deserting, and then the deserter would have had to expect the full consequences of the law.

Q It is stated by the Prosecution that the criminal activities of the SS were so extensive and applied to so many cases of illegal acts that its illegality could not have remained hidden -- hidden from the members of the SS.

A The SS was not a unit. I have already described that it is an organization of the SS. A member of the SS had no possible way of knowing of the illegality of the General SS or the Waffen SS. He never saw such crimes committed and so he could not come to the conclusion that he was working for a criminal organization. He could not possibly have known of the crimes which were being committed because they are only becoming known now.

DR. PELCKMANN: Your Lordship, finally, if you will permit me to do so, I should like to put one more question to the witness because he was occupied with the compiling of affidavits together with a certain staff. If this High Tribunal would care to ascertain the manner of the collection of these affidavits and how it was taking place, then this witness can give

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information on this subject.

THE PRESIDENT: Yes, very well. You may ask him.

BY DR. PELCKMANN:

Q 136,213 affidavits have been utilized, which were entered on printed forms in various fields, offering a survey of various subjects, fields and spheres which were carried out. Mr. Witness, you exploited and utilized these affidavits, did you not?

A This utilization was carried out under my direction. Fifteen SS internees, all who hold judges' positions, were carrying this out. Some 170,000 statements submitted were utilized. 136,213 affidavits and applications, together with evidence, were added to a collection of documents from a number of documents to be heard. These 136,000 statements were sub-divided in document files according to their subjects. In answer to questions put by the defense in connection with accusations raised against the officials . . .

Q From where did you get this considerable number of affidavits?

A Presumably from camps in the American and in the British zones. To a smaller extent, from the French zone. No affidavits whatever came from the Russian zone and from the Austrian zone.

Q When surveying and analyzing these affidavits, how did you proceed?

A I have just explained that.

Q I don't want the details / . . .

THE PRESIDENT: Dr. Pelckmann, what I understood the witness to say was that there were 170,000 statements utilized, and from these 170,000 statements, 136,000 affidavits were obtained. Well, how were they obtained? The Tribunal would like to know. Before whom were they sworn?

DR. PELCKMANN: That the witness will be able to explain, Mr. President.

THE WITNESS: These 170,000 affidavits came from members of the SS. Out of this little figure of 170,000, 136,213 affidavits have, in fact, been digested by myself. The remaining affidavits were not exploited because partly they were irrelevant and partly because they were not submitted in the correct form.

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THE PRESIDENT: You mean the whole 170,000 were sworn affidavits?

DR. PELCKMANN: Sworn before w. a, Mr. Witness?

THE WITNESS: These 170,000 were partly sworn. The 136,000 affidavits, however, were all sworn. It was the decision of the High Tribunal that the swearing of affidavits before a German lawyer would only be valid if carried out before May of this year, and the swearing of affidavits after May of this year would have to take place before an Allied officer. That, however, did not take place in all the camps. After May, 1946, affidavits were still sworn before legal persons and in accordance with the decision of the High Tribunal, they would have to be discarded as invalid. For that reason only 136,000 affidavits remained.

BY DR. PELCKMANN:

Q Were they chosen and exploited from the point of view that only those affidavits should be chosen that were favorable to the defense of the SS?

A No, all affidavits to their full extent were unexploited.

Q How is it that in reference to certain individual points many thousands of statements are available and utilized, whereas, in reference to other points, only a few affidavits are concerned in the list.

A From the mass of the affidavits submitted, it becomes evident that the bulk of the SS members are facing the indictment without understanding it. They cannot imagine, to show you an example, that they were working in a conspiracy. They cannot imagine that they have prepared a war of aggression. For that reason, members of the SS are only testifying to such facts that they know from their work in the SS. The serviceman at the front is talking about his experience at the front, and the member of the General SS about the type of his work during the years from 1933 to 1939.

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Q In order to give an example -- and the High Tribunal will be able to recognize it later from the affidavit -- if, for instance, under the figure Roman No. 4, figure 1-9; namely, the question, if there was a question there, "Were excesses in concentration camps forbidden?" -- Now, if there are only two explanations regarding this point available, does that then mean that only two out of hundreds of thousands of members of the SS can confirm this prohibition?

A No.

Q And it also was important that all others know the opposite?

A No, that is just what it does mean. The members of the SS, when they were questioned were not able to make a statement about that statement at all because they don't know about it; therefore, they can give neither an answer in the negative nor in the positive sense and for that reason they pass over it without giving a statement.

Q Have you based from your knowledge of the various section of the SS and their activity and also on the attitude adopted by the bulk of the SS men again the impression that this exploitation of approximately one hundred thirty-six thousand affidavits reproduces the average knowledge of the bulk of the SS men although the entire strength of the SS was, of course, considerably more than one hundred thirty-six thousand?

A It must be observed in that connection that most of the men and the low-ranking members of the officers who represented the bulk already had been released at the moment when the affidavits were obtained. The result had been noted that in many camps lots of technical difficulties existed; also in many camps the question regarding the subject of evidence was uniform -- after this and from the Russian zone and from Austria, statements of opinion are lacking altogether. In spire of these deficiencies, I believe on the strength of my own knowledge about the typical activities of the SS, that I can say that the total picture of these affidavits can be considered typical for the SS.

DR. PELCKMANN: Your Lordship, I have no further questions to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken.)

DR. LATERNSER: Mr. President, I ask for the approval of the

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examination of the witness which will take about three minutes, to clear up one point which has come up during this examination.

THE PRESIDENT: What is the point, Dr. Laternser?

DR. LATERNSER: I should like to ask the witness about a point which came up during the direct examination by the defense counsel for the SS, about the guarding of the concentration camps.

THE PRESIDENT: How does that affect the High Command?

DR. LATERNSER: There could be a connection from the charge against t accused group that might possibly arise.

THE PRESIDENT: You know, Dr. Laternser that the Tribunal reject your application.

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THE PRESIDENT: Does the prosecution wish to cross-examine?

BY MR. ELWYN JONES:

Q Witness, you were an SS man from 1933 on, were you not?

A Yes.

Q And during most of that time you were connected with the SS Legal System?

A Yes.

Q Would a serious view have been taken in the Waffen SS or the German Army, about the murder of Jews by SS men?

A I don't understand the question.

Q I will repeat it. Would a serious view have been taken in the Waffen SS or the German Army about the murder of Jews by SS men?

A If the destruction of Jews on Himmler's orders had been known in the SS, or as the prosecution says in the Wehrmact, they would certainly have concerned themselves about it.

Q If an SS man had murdered 50 Jews, would that have resulted in a death penalty being inflicted on him?

A I cannot answer this question in simple words. It touches an important problem.

Q I want you to look at the document dated the 14th of September 1939, which shows the dealings of murder in the SS by the highest Judicial authorities and the German Army. It is D-421 which will become GB-567. The first page of the memorandum - "The Chief of the Army Judiciary announces by telephone. The Field Court Martial of the Kempf Armoured Division has sentenced an SS man of the SS Artillery Regiment to three years imprisonment and a military police sergeant major to 9 years penal servitude for manslaughter. After about 50 Jews, who had been used during the day to repair a bridge, had finished their work in the evening, these two men drove them all into a synagogue and shot them all without any reason. The sentence is submitted to the Commander-in-Chief of the 3rd Army for confirmation. The proposal of the representative of the prosecution is capital

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punishment for murder. Sentence on the day after the act." Then their follows " Initials". There is a marginal note: "General Halder requests information on the decision of the Commander in Chief of the 3rd Army." Then "Purple pencil notes: to the Adjutant of the Commander in Chief of the Army." In the next page you will see the course of this history. "Telegram to the Military Judge of the 4th rank, from the bottom, attached to the Quartermaster General in Berlin. SS man Ernst is granted extenuating circumstances because he was induced to participate in the shooting by a corporal handing him a rifle. He was in a state of irritation owing to numerous atrocities committed by Poles against persons of German race. As an SS man, particularly sensitive at the sight of Jews, to the hostile attitude of Jewry to the Germans, he therefore acted quite thoughtlessly in a youthful spirit of adventure. An excellent soldier not punished before." Then there are purple pencil notes on the bottom, "to the Adjutant of the Commander in Chief of the Army", lead pencil note, "telephone call from Oberkriegsgerichtsrat Dr. Sattmann to the effect that so far as has been ascertained the Commander in Chief of the Army Head quarters will not confirm both sentences." Then added, in lead pencil, "The sentences have been dropped under the Amnesty. Punishment was announced before the Amnesty. Nine years penal servitude for the police sergeant major changed to 3 years imprisonment. Three years imprisonment for SS man, unchanged. Confirmed by Army Headquarters." Now, witness, that was a clear countenancing of mass murder by the judicial authorities of the German Army, was it not?

A This document, as I understant it, in the second part of the evidence regarding explanation for the mild sentence for the two SS men, it is the personal opinion of Kreigsgerichtsrat Lipski, who passed on the sentence. I am therefore not in a position, since I do not know the other facts in the case, to judge whether the reasons which the presiding Judge gives deviate

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from the facts or not.

Q Do you appreciate, witness, that for the murder of 50 Jews, and it is a fact as reported in this document, there was a finding of manslaughter here? That Judge who passed the sentence of 3 years, he was one of your colleagues of the Army. I suggest that this is typical of their acts, and typical of the attitude to such murders.

A I have the following to say in this connection. A legal question is at issue, whether the actual fact of manslaughter or murder existed. What actually existed as the cause to judge for manslaughter is not indicated by the document. For that reason, I cannot answer it.

Q It is perfectly clear why it was reduced to manslaughter Because this man was sensitive at the sight of Jews. It was just a youthful adventure. That was apparent in the Judge's mind. You know it is perfectly clear?

A I should like to say the following. As the document indicates, the application of the prosecution had been made for a murder sentence and for the death sentence. The presiding Judge did not consider this a case of murder but manslaughter. According to the German Penal Law, the difference between manslaughter and murder is that murder is an action with previous deliberation with the aim of killing a person. Manslaughter is an act of impulse, resulting in the death of a person. This latter legal qualification the Judge passed his sentence on and considered the circumstances as described here.

Q I know the Tribunal is familiar with your dissertation. The end of this story was that the Army Commander in Chief said the sentences would drop under the Amnesty. That is the end of this case of murder by the Army Judicial authorities, amnesty and pardoning of the whole thing. Now we will turn to another document so the Tribunal can judge how zealously the authorities were in such cases. It is D-936 and will be GB-568. This comes from an earlier period, not the days when the Poles or the others were operating. These were the pioneer days, 1933, when

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you joined them. This is a file relating to the deaths of prisoners in protective custody at the concentration camp of Dachau. It starts with a letter dated 2 June 1933, from the Provincial Court Public Prosecutor to the State Ministry of Justice. Subject: Deaths of prisoners in protective custody at the concentration camp of Dachau. It relates to the Schloss Hausmann, Strauss and Nefzger cases. "In accordance with my instructions, I had a lengthy discussion on the 1 June 1933, with the Police Commander Himmler in his office at the Police Headquarters, Munich, about the incident at the concentration camp of Dachau, which I have already reported to the Ministry of Justice separately; in particular I told him briefly, with the aid of the photographs from the investigation files, about the Schloss Hausmann, Strauss and Nefzger cases, of which he appeared to have been advised already. I pointed out that particularly the four above-mentioned cases, in view of the findings to date, offer good reason for cogent suspicion of serious punishable actions on the part of individual members of the camp guard and of camp officials, and that both the Public Prosecution and the Police authorities to whose knowledge these incidents have come are under the obligation, under the threat of heavy punishment, to carry out the criminal investigation of the above-mentioned incidents without consideration for any persons whatsoever." I need not trouble you with the rest of the article. Document 2, shows that no action has apparently been taken from the 2nd of June until the 11th of August. It is from the Provincial Court Public Prosecutor, dated 11 August 1933, to the State Ministry of Justice. The last sentence of that letter reads, "Should the dossiers not be required at present, I would request the return of these files for the purpose of examining whether the decree of 2.8.1933 regarding the granting of immunity from punishment has to be applied." I won't trouble you with the 3rd and 4th documents. If the Tribunal turns to page 5, and you witness turn to document 8, I wish to refer to it. That is a report from the

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Provincial Public Prosecutor to the State Ministry of Justice, dated 26 September 1936. Subject: Death of the prisoner in protective custody, Hugo Handschuch in D_chau camp. Have you found that?

Q Yes, I have found it.

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7 AUG-M-MEEHAN-MH-8-1

I am reading from page Five of the English text:

Subject : "Death of the prisoner in protective custody Hugo Handschuch in Dachau camp.

"The judicial autopsy ordered by me took place in Dachau on the 23rd of September, 1933. It showed that death was due to a brain injury owing to hemorrhage in the left membrane and that this hemorrhage was caused by blows with a blunt instrument, which hit the skull particularly in the region of the left temple and the back of the head. In addition, extensive bleeding was established in the corpse in the region of the left cheek, in the right shoulder and left upper arm regions, in the regions of the seat and the upper thigh and of the lower part of the left thigh, - the results of blows on the body of the deceased with a blunt object, during his lifetime. On the findings based on the post-mortem, the preliminary medical opinion gave grounds for assuming outside responsibility.

"I intend to continue the further necessary search for the perpetrators in collaboration with the Political Police."

It is brought to the attention, as you see, of the Prime Minister with a request to take note and forward to the Reich governor in Bavaria. Notice is also given to the State Minister of the Interior.

Then, Document 11, page 9 of the English Text. It is a proposal made by the Minister of the Interior to quash the inquiry into the deaths of the protective custody prisoners, Handschuch, Frantz and Katz. Witness, you will remember Handschuch Frantz and Katz.

This is a letter from Adolf Wagner to the defendant, Dr. Frank and the represtative Nazi jurist. This letter is dated the 29th of November, 1933.

THE PRESIDENT : What Dr. Frank do you refer to?

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MR. ELWYN JONES : The defendant, Dr. Frank.

THE PRESIDENT : Yes, go ahead.

MR. ELWYN JONES : "The Commander of thePolitical Police in the Ministry of the Interior presented to you on the 18th of November, 1933 a proposal, according to which the inquir into the cases of the prisoners in protective custody, Hugo Handschuh, Wilhelm Frantz and Delvin Katz, should be quashe for state political reasons. In connection with this case, you sent to me the liaison man of the State Ministry of Justice with the Bavarian Political Police, Public Prosecutor Dr. Stopp, Meanwhile, in a discussion with the commander of the Political Police Reichsfuehrer SS Himmler, I have ascertained once more that to carry out this inquiry would cause considerable damage to the reputation of the National Socialist State, because this inquiry would be directed against members of the SA and SS and thus the SA and the SS, as the main props of the National Socialist State would be directly affected. For these reasons, I support the ptoposal for quashing the inquiry presented to you on the 18th of November, 1933 by the Commander of the Political Police in the State Ministry of the Interior."

I don't think I need trouble with the rest of the letter, which states that the inmates of the concentration camp were almost exclusively of the cri inal types.

THE PRESIDENT : The Document, which you have just been reading from, page nine of the English text, is dated the 29th of November, 1933. Is that correct?

Mr. ELWYN JONES : Yes, My Lord.

THE PRESIDENT : Is that a misprint?

MR ELWYN JONES : No, My Lord, that is correct.

THE PRESIDENT : The Document, page five of the English text, is dated September 26, 1936. Is that correct?

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MR. ELWYN JONES : No, My Lord, that is a misprint and I should have called your Lordship's attention to it. That should be 1933, My Lord, and I am much obliged.

THE PRESIDENT : That is page five, In referring to the Document, you should state that the pages which you did not refer to, pages three and four, show that the other dossiers, in connection with the Public Prosecutor, Provincial Court, Munich were apparently lost and were not forthcoming and that inquiries were going on about them until 1935.

MR ELWYN JONES : Yes, My Lord. Much obliged. I was trying to deal with the essential contents of the file.

THE PRESIDENT : Go on then.

MR. ELWYN JONES : I want you, witness, to look at page six of the English text and Document 10 of your file. That is a memo from Dr. H. Frank, the defendant, dated July 2, 1933 to the Prime Minister and the subject is "Quashing of Criminal Proceedings."

"A merchant's wife, Sophie Handschuch, of Munich, in a written statement received by the PUBLIC PROSECUTION at the PROVINCIAL COURT, Munich 11, on the 18th of September, 1933 stated that her son, Hugh Handschuch, taken into protective custody on the 23rd of August, 1933, dies of heart failure in Dachau camp on the 2nd of September, 1933. In the inquest certificate, heart failure following on the concussion of the brain was given as the cause of death. The body was not shown to the relatives and was handed over only after great difficulties and on condition that the coffin would not be re-opened. The coffin was so firmly nailed down that it was impossible to re-open it. The writer asked that the coffin be opened and a judicial post-mortem held, as she was told the body identified and the cause of

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death established.

"In order to clear up the state of affairs, the Provincial Court Public Prosecutor at the Provincial Court, Munich II, at first, personally questioned the plaintiff, Sophie Handschuch, and the fiancee of the deceased. Thea Mink. From their evidence, the assumption seemed justified that already on the day of his arrest Handschuch was badly physically treated in the Brauhaus in Munich, and in connection with the further established fact that the relatives o. the dead man were expressly refused the permission to view the body, sufficient grounds were given for the suspicion that Handschuch did not die a natural death. In order to esta lish the cause of death without any doubts, the body was exhumed in Dachau on the 23rd of September, 1933 and a judicial autopsy carried out on the orders of the provincial court public prosecutor. It showed that death was caused by injury to the brain, as a result of a hemmorrhage of the soft membrane of the brain and that these hemmorrhages originated from blows with a blunt object, which hit the skull particularly in the region of the left temple and that of the back of the head."

Further details of the autopsy are given in another document.

I read : "In addition, extensive bleeding was established in the region of the left cheek, the right shoulder and the left upper arm of the corpse, in the region of the seat, the thigh, and on the lower part of the left thigh, as a result o. blows with a blunt instrument on the body of the deceased while still alive. The findings of the judicial autopsy gave ground for assuming outside responsibility."

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Then, paragraph 11 : "In the forenoon of the 19th October, the Public Prosecution at the Provincial Court, Munich 11, informed by telephone by the Bavarian Political Police that in the afternoon of the 17th of October, 1933, Wilhelm Franz, of Munich, a prisoner in protective custody, born on the 5th of June, 1909, and, on the night of the 17th - 18th of October, 1933, Dr. Selvin Katz, of Nurnberg, a prisoner in protective custody, born on the 3rd of August 1887, hanged themselves in their military confinement cells in Dachau concentration camp. The Public Prosecution ordered the same morning a legal examination to be held in the camp, followed by a post mortem. The corpses in a locker camp shed lying on stretchers, and with the exception of the feet were totally undressed. In Franz' cell, fresh blood spots and splashes were observed on the wooden plank bed."

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It goes on to say that a judicial autopsy was ordered on the 20th of October.

The next paragraph : "The autpsy gave grounds suspecting in both corpses, force by an outside hand. According to preliminary opinion of both law court doctors, provincial Court doctor Dr. Falmm and Court Doctro Dr. Nidenthal, death by suffocation, as a result of strangulation and throttling, was dstablished in both cases. The strangulation marks found on the neck do not correspond to ob servations in the case of persons hanged. In respec of Framm's body, it is also stated in the preliminary opinion that fat embolism is not prime-facie to be excluded as a contributing cause of death, fresh weals on the head, covered with hair as well as particularly numerous ones on the body and the arms, with extensive bleeding and destruction of the fatty-tissues were established on this corpse, part from injuries on the neck. Also Katz' body showed various signs of drying up and rubbing off of the skin off the head and one separation of the skin.

"At the time of the examination already, the public prosecution had demanded the production of both belts with which Franz and Katz had allegedly hang themselves; they could not be handed over at once. The Dachau lower Court had ordered the confiscation of the belts, in accordance with the application. Up until now, the objects confiscated had not yet been received by the Public Prosecution."

Then paragraph lll: "In each case I informed the Prime Minister, and through him, the Reich Governor in Bavaria, as well as the State Minister of the Interior of the Public Prosecution's reports on the cases quoted in 1 and

"In a letter of the 29th of November, 1933, addressed to me, the State Minister of the Interior proposed that, for State political reasons, the inquiry pending at the Public Prosecution of the Provincial Court, Munich 11, into the death of Hugo Handschuch, Wilhelm Frantz and Dr. Delvin Katz prisoners in protective custody, should be quashed. As a reasnn, it is pointed out that the conducting of investigations would cause great harm to the prestige of the National Socialist State, since these proceedings would be directed against members of the SA and SS and thus the SA and SS as the chief protagonists of the National Socialist State would be immediately affected".

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And then it goes on to give an opinion in law that the Reich governor has the right of pardoning. He stated in the last sentence :"According to the law, Reich Governors, this right is vested exclusively in the Reich governor in Bavaria."

The next paragraph :"In view of this legal position, I beg you to submit the proposal of the State Minister of the Interior to the Council of Ministers."

The next document, page 10 of the English text and Document 12 of the German text, states :"The proposal of the State Minister of the Interior that the inquiry pending at the public prosecution at the Provincial Court Munich into the death of the prisoners Handschuch, Frantz and Katz, who were in protective custody, be quashed, was the subject of a debate during the meeting of the Council of Ministers of the 5th of December 1933. As a result, the State Minister of Justice communicated the following to the undersigned official.

"The criminal proceedings, regarding the happenings in the Dachau concentration camp are to be continued with all determination. The facts are to be cleared up with the utmost speed. "

Then, there are various instructions with regard to the crimes.

The next step of this story is Document 12 of the German file, page 11 of the English text :

"Presented to the state ministers with the request that they take note. The note of the first public prosecutor, Dr. Stepp. regarding the carrying out of his instructions is attached with the request that note be taken.

"By order of Ministerial Counselor Doebig, I communicated to the Reichsfuehrer SS Himmler, the decision taken yesterday by the Council of Ministers concerning the case of Baudschurch etc. The Reichsfuehrer SS told me that the matter greatly concerned the chief of staff of the SA, Reich Minister Roehm. He (Himmler) had to discuss the matter with the latter first."

Then Roehm gives certain instructions which are written down from memory by Dr. Stepp.

"The Dachau camp is a camp for prisoners who are in protective custody and who were imprisoned on political grounds. The incidents concerned are of a political nature and under all circumstances the political authorities must decide first about them. To my mind they are not suited to be dealt with by the legal authorities. This is my opinion as Chief of Staff and also as a Reich Minister. who is interested in the Reich not suffering politically because of the proceedings in question.

"I shall get the Reichsfuehrer SS to issue an order that no investigating authorities may enter the camp for the time being and that people in the camp may also not be interrogated for the time being."

Then there is a note:

"The Court of Appeals Public Prosecution Munich, was instructed by a directi from the Minister to refrain for the time being from making an application for the opening of preliminary investigations."

Then follows the next document, document 13, a letter to the Public Prosecution as to the death of the prisoners. Wilhelm Frantz and Dr. Katz.

"With regard to the above mentioned matter, I have as instructed, requeste the Bavarian Political Police to clear u the matter further in conjunction wit the Commandant's office of the concentration camp of Dachau and to endeavour to find out the persons who are suspected of having been the culprits. In this requ I mentioned also that I have not yet received the legally confiscated instruments of suicide (belt and braces) of the dead men.

"The Political Police have apparently transmitted the files without any

written direction to the Political Department of the concentration camp of Dacha The first paragraph of this letter reads:

"The latest application for production of evidence from the Public Prosecutio Munich 11 shows what far-fetched means are employed in order to saddle the concentration camp of Dachau with allegedly perpetrated crimes."

"In the second paragraph of the letter regret is expressed that the two dead men were able by their suicide to escape impending punishment for smuggling lette The third paragraph refers to the confiscation and reads:

"After the two corpses had been dissected, according to law, and had been released, the commandant's staff had no further interest in the preservation of the instruments with which they had hanged themselves. The commandant's staff d not belong to those objectionable Kulturmrnscher (cultured people) who preserve such articles as souvenirs, as was done in America recently in the Dillinger case

"The Letter is signed on behalf of the camp commandant by SS Obersturmbannfuehrer Lippert."

Then there is a request by the Public Prosecution for action.

Then amongst the next letters there is a letter to the camp commandant of Dachau which shows that the request of the Oberstaatsanwalt arose from the impartial observation of his official duty and then the file closes with this entr 27 September, 1934, Public Prosecution, letter from the Oberstaatsanwalt to the Generalstaatsamwalt at the Court of Appeals Munich.

"Subject: Death of the prisoners in protective custody Wilhelm Frantz and Dr. Katz in the concentration camp Dachau.

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"I have stopped the proceedings, as the investigations have not produced sufficient grounds for the assumption of outside guilt in the deaths of the two prisoners in protective custody."

BY MR. ELWYN JONES:

Q. Well now, I have taken some time to read that document as that is a characteristic illustration of the fact that the SA and SS abominations in the camps were protected by the highest authorities of the Third Reich, is that not so ?

A. I must say to this document that it is from the year 1933, at a time when the concentration camp Dachau was not manned exclusively by SS men. This document indicates that the Proseuction of the Court of Appeals in Munich had notice that some persons in protective custody had been murdered.

Q. Are you suggesting that conditions improved after the SS men took complete charge of running the camp ?

A. I should like to say that these were individual cases from the year 1933, which are contained in this document. This document does not, however indicate general conditions in the concentration camps, particularly in the coming years.

Q. Did you know that the Waffen SS was making quite a profitable business out of killing people in concentration camps ? Did you know that ?

Q. I want you to look at the document D-960, which will be Exhibit GB 568. It is a very short document, this one. It is headed :

"Waffen SS , Natzweiler Concentration Camp, Commandant's office -- 24 March 1943, Concentration Camp Natzweiler.

Bill to the Security Police and SD, Strassburg.

For the twenty prisoners executed and cremated in this concentration camp, costs amounting to 127 Reichsmarks, five pfennig arose. The Commandant's office of the Natzweiler Concentration Camp requests the early dispatch of the above mentioned sum."

The tarrif for killing was very low in Natzweiler, wasn't it, six marks 38 pfennig for each dead man ? Did you know that monies were being paid to the Waffen SS for activities of that kind ?

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A. No. As I understsnd it this document does not show that either. The concentration camp commandatur here uses the stamp "Waffen SS".

I must refer to what I said yesterday, that the term "Waffen SS" is misleading to the extent that the concentration camp system was an independent police arrangement. This document seems to support my statement, since it shows that this terrible bill here was sent to the Seucrity Police again to an executive organ.

Q. Just a moment. Assuming that the Security Police paid this bill, where would the money have gone to ? It would have gone back to Natzweiler. What would have happened to it. Would it have been credited to the funds of the Waffen SS or not ?

A. The Commandatur of the concentration camps, including Natzweiler, settled their bills with the Reich and not with the SS. I cannot say how it was used and for what purpose it was spent .

Q. You have no knowledge of the financial arrangements of these camps vis a vis the Waffen SS, have you ? If you have not that suffices for me for the moment.

A. No, I know from my activity in the SS court a little about the economic subordination of the concentration camps and as to this point, I know that the commandaturs of concentration camps settled their accounts directly with the agencies of the German Reich when not connected with other treasuries of agencies of the Waffen SS , as such.

Q. Witness, please, now you said in your testimony that the guards in concentration camps had not committed crimes, that whoever else was responsible, Pohl and one or two others, certainly it was not the SS guards. Were you serious when you said that, witness ?

A. In order to clarify a misunderstanding, I should like to make it clear here that by guards, in the sense of my testimony, I meant only those persons who guarded a concentration camp from the outside in contrast to those members of the concentration camp on the commandatur's staff who guarded the internal installations of the camp.

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Q. But both those categories of guards were SS men, were they not ?

A. As I have laready said, they belonged to the so-called nominal Waffen SS without having anything organically to do with it.

Q. I shall return to that point in a moment.

First of all I want you to look at document D-924, which will give you a picture of the humanity and ethical attitude of SS guards. I am using a phrase which you used yourself vis a vis the SS. It is GB 57. It is a report this time from a Dutch source of the evacuation of the Rehmsdorff camp to Theresianstadt.

The first page is a statement by Peter Langhorst, who says :

"I am an ex-political prisoner and I have been detained in various prisons and concentration camps, finally in the Rehmsdorff damp.

"At the approach of the Allied armies this camp was evacuated and the prisoners about 2900 men, were put on transport from Rehmsdorff to Theresianstadt.

"Mostly these prisoners were Czechs, Poles , Russians , and Hungarian Jews, while they were only a few Dutchmen among them.

"Of these prisoners only some 500 actually reached Theresianstadt; the others were simply killed off during the transport by the so-called 'shot in the neck'.

"The corposes were thrown into mass graves which were filled up afterwards,"

Then I need not trouble you with the rest of the statement but you see a further statement with regard to that matter by Baron von Lamsweerde of Amsterdam, who was on this transport who says, at the end of the second paragraph :

"On the 12th of November 1944, I was imprisoned in the concentration camp Rehmsdorff where I stayed until my escape on April 20, 1945. At the approach of the Allied Forces, the Camp at Rehmsdorff was evacuated in great haste and the political prisoners of this camp were transported to the camp Theresienstadt.

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"At first the prisoners were transported by train and in goods-vans. We arrived by train at Marienbad, where, for causes I do not know, we had a delay of about one week. The vans with the prisoners were kept standing at the station. In the course of that week Allied bombers attacked the Marienbad station and in the confusion some 1000 prisoners escaped into the surrounding woods. Naturally the entire local service (the S.S., Volkssturm, and Hitler Jugend) was set to work to recapture the escaped prisoners and practically all prisoners, who of course wore their camp-clothes and could easily be recognized, were recaptured. These prisoners, about a thousand men, were led back in groups to Marienbad station and there they were killed by the SS guards by a shot in the neck. As both engines of the train had been wrecked during the air attack, the prisoners had to walk all the way back from Marienbad to Theresienstadt. Many among them were unable to go so far, and fell down along the road, totally exhausted; without exception these prisoners were murdered by the guards by a shot in the neck. That evening their bodies were removed by lorry and buried in mass-graves in the woods." And he says he thinks that he could identify where it was. "I am fully prepare to assist in tracing them. When the transport started I heard the SS guards saying that the total number of prisoners amounted to 2775. Only some of these prisoners have reached Theresienstadt. The others were murdered during the transport. Near Lobositz, about 7 kilometers from Theresienstadt, I myself escaped. The leader of the transport was the SS Oberscharfuehrer, Schmidt, one of the henchmen of Buchenwald, who also there behaved in a most scandalous way towards the prisoners, and who was known to be a sadist."

Do you still say that the SS guards portrayed the characteristics of decency?

A I should like to emphasize that I did not say that the SS guards had the characteristics of SS members. I said that our investigations showed that the criminal complex of crimes in concentration camps were committed by members of the commandanteurs and that we found no evidence that the guards had any part in them.

Q Let me show you another document, Document D-959, GB 571, which is a report to the Ministry of the Interior of the Czechoslovak Republic. I want you to turn to page 3 of the report: "Crimes committed by the members

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of the Allgemeine SS and the Waffen SS."

"The crimes committed by the members of the SS troops against the Czechoslovak and foreign citizens on the .....

THE PRESIDENT: Mr. Elwyn Jones, isn't it rather late to put in documents of this sort which are general reports by the governments of allied countries? The case has been already fully made by the prosecution and to put in a new document of this sort, which is only a report of an allied country, seems to the Tribunal to be an unusual course to take.

MR. ELWYN JONES: With great respect, My Lord, I submit that the prosecution is entitled to put in documents of this kind in rebuttal of the sort of testimony that this witness is giving. The conception that a witness should solemnly say that SS guards committed no atrocities was one which certainly did not even occur to the prosecution, and in face of testimony of that kind I submit that the prosecution is well entitled to put in documents which do not deal with individual cases, which might possibly be objectionable to the Tribunal, but on the whole mass of testimony. I submit that until the very last moment the prosecution is entitled to put in such documents, regrettable though it is, perhaps, that they have not been put in before, but I do submit that the prosecution is entitled to put them in. If your Lordship pleases, if I might add a further comment to your Lordship's inquiry, the defense have, after all, produced over a hundred thousand affidavits and I do submit that in those circumstances, in view of that mountain of evidence, it is only right that there should rest upon the record the authority of statements submitted on behalf of the prosecution.

THE PRESIDENT: What is your submission, with reference to the construction of Article 21, with reference to this document?

MR. ELWYN JONES: If your Lordship pleases, I submit that the terms of Article 21 make it mandatory upon the Tribunal to accept reports of this kind by governments, which are submitted by the prosecution.

THE PRESIDENT: Which are the official words to which you refer?

MR. ELWYN JONES: The second sentence, "The Tribunal shall also take judicial notice of offocial governmental documents and reports of United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes and the records

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and findings of military and other tribunals of any United Nations." Now this document, my Lord, has a certificate from the Czechoslovak Minister of the Interior on the face of it, certifying that it is a State Document, within the meaning of Article 21, and it bears the signature of the Minister of the Interior himself, so that I submit that quite clearly within the terms of Article 21 it is properly admissible and in that respect that the Tribunal should accept it.

THE PRESIDENT: Was there any committee or commission which drew up this document?

MR. ELWYN JONES: It is a report of the Czechoslovakian Ministry of the Interior itself; it is a report of the State Department.

THE PRESIDENT: Report to whom?

MR. ELWYN JONES: Furthermore, My Lord, my learned friend, Lt. Col. Griffith-Jones, draws my attention to Article 19 of the Charter: "The Tribunal shall not bebound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure and shall admit any evidence that it deems to have probative value." I do submit that even if you were to find, and I find it hard tothink that you would, that this is not a document withinthe meaning of Article 21, it is admissible under Article 19.

THE PRESIDENT: Do you want to say anything, Dr. Pelckmann?

DR. PELCKMANN: I believe, your Lordship, tha decision of the Tribunal on this document should be the same as on the two documents which we attempted in vain to introduce yesterday. Whether this document falls under Article 21, I cannot judge. The Tribunal will decide that. But I refer to the other point of view which your Lordship has already mentioned. It is very late that these documents are submitted now. Article 21 is to be interpreted to mean that such documents can be submitted during the presentation of the case of the prosecution. The prosecution case is closed and it can only be submitted to the witness but then the defense, which deals with hundreds, perhaps thousands of cases, then the defense must have an opportunity to comment on it. This does not deal only with the credibility of the witness but is actuallythe presentation of new evidence for the prosecution. The

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defense must have an opportunity to answer it. I do not believe that it falls under Article 21. Otherwise the trial would be extended indefinitely.

THE PRESIDENT: The Tribunal will adjourn and we will sit again at 2:00 o'clock.

(A recess was taken until 1400 hours.)

5-45

AFTERNOON SESSION

(The hearing reconvened at 1400 hours , 7 August 1946)

THE PRESIDENT: Mr. Elwyn Jones, The Tribunal will take judicial notice of the document which you were submitting under Aritcle 21. They don't think that you need deal with it at great length.

MR. ELWYN JONES: Very well, My Lord. The Document D-959 will be Exhibit GB 571.

GUENTHER REINECKE -- Resumed

CROSS EXAMINATION -- Continued

BY MR. ELWYN JONES:

Q. Witness, have you any knowledge of the part played by SS-units in the arrest and ill treatment of the students of Prague on November 17, 1939 ?

A. No. About that subject I cannot testify. Just the fact of the participation is now only becoming known to me for the first time.

Q. You had no knowledge of the participation of the 6th SS Totenkopf Standarte in that, did you ?

A. No.

MR. ELWYN JONES: I am referring, My Lord, to the Czechoslovakia Report, USSR 60.

BY MR. ELWYN JONES:

Q. You say you had no knowledge of that ?

A. No, I had no knowledge.

Q. This report refers further to reprisal measures against civilians suspected of contact with the partisans, in which the SS took part. Do you have any knowledge of SS troops taking part in reprisal measures against civilians ?

A. I can testify to that insofar as it is known to me, in which manner, in which fashion the Waffen SS was being employed. I know that the Waffen SS, the only Waffen SS that we can be concerned with in this case was fighting at the front.

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Q. I want you to look at the last paragraph but one on Page 4 of Exhibit D 959 -- the fourth paragraph down in the English text. "On May 4, 1945. after having plundered the village of Javorisko, in the district of Litovel the SS burned it down. During this execution the SS troops shot in the nape or killed in the burning houses all the male inhabitants of the village from the age of 15 to 70 years. Women with children after having been ill treated were driven away. The execution, at which 38 men lost their lives, took place because the inhabitants of the village were suspected of hiding partisans." Have you any knowledge of that act or an action of that kind that the SS took part in ?

A. No. Such actions never became known to me. Obviously, we are here concerned with the last fight for Prague.

Q. I want you to turn to some further evidence about the illtreatment by SS guards of transports of prisoners from concentration camps. The fifth paragraph down on page 5 of the report refers to 312 persons being beaten to death or shot or died, and their bodies buried in a coal pit. You see it stated there that the beatings and killings were done by SS guards. It is very much like the Dutch report, is it not ? And then there follows in the last section, crimes committed during the Revolution of May, 1945, f further accounts of SS atrocities. Now, witness, I want you to look at a new document, D 878 which will be GB 572 which is a report from the Scientific Statistical Institue of the Reichsfuehrer SS on the composition of the SS. I want you to look, if you will, at the third parge, a page marke pa e l . That sets out -- I am sorry, My Lord, I haven't a translation of this, but I think the entries will speak for themselves. That is headed "Total strength of the SS as on the 30th of June 1944". You will see it shows "Allgemeine SS" and the translation, I think, is excluding those members who, at the moment, are serving as reserves of the Waffen SS, "Nicht einberufen". Total called up 66,614.

THE PRESIDENT: 64,000

BY MR. ELWYN JONES :

Q. 64,000. Called up in the Wehrmacht, 115,908. Calldd up to the

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labor front, 722. In miscellaneous duties, 19,254, a total of 200,498 of the Allgemeine SS. Can you tell the Tribunal whether those not called up among the 64,000 odd were performing police duties, or were some of those performing police duties ?

A. In my view the figures which are contained in the document concern members of the General SS who were neither called up nor carrying out any other type of activity -- in other words, who were following their civilian occupations at home. In other words, used in the economic life.

Q. The last category of 19,254 on miscellaneous duties, were those the people who were forming the personnel of the Einsatzkommandos ?

A. That is absolutely out of the question, because the personnel for Einstzkommandos only consisted of a few hundred men. The conception of the general use of the Einstz must refer to some other function which I cannot at the moment touch.

Q. You will see that that page shows the total in the Waffen SS, 594,443. I want youto turn to Page 24 --

THE PRESIDENT: Mr. Jones, what is the final total described ?

MR. ELWYN JONES: The total, 794,941.

THE [illegible]: What does the second German word mean ?

MR. ELWYN JONES: "Insgesamt", "altogether", My Lord.

THE PRESIDENT: "altogether". I see.

BY MR. ELWYN JONES:

Q. You turn to Page 24 and you will see that that total of members of the Waffen SS of 594,443 is divided up into various categories : First, the Feldtruppenteile, which are field units, 368,654. Then the next is, I understand, Recruiting Staff , 21,365. The next category, training and reserve, 127,643. The schools, 10,822. Then other units and offices directly subordinate to SS leadership head office, 26,544. And then in the head office, 39,415 making the grand total of 594,443. That entry of 26,544 other units and offices directly subordinate to SS leadership head office -- who were those men ? Were they the personnel of the Einsatzkommandos ?

A. I beg to repeat the answer I have just given you. We cannot be concerned in this case with the personnel of these special action commandos because that personnel of these special action troops did not have anything to do actually with the SS, but came from various departments of the Executive, in particular, from the police. This figure of 26,524 as members of the SS must refer to members of offices and units who weren't stationed in the police department, but who, on the other hand, weren't fighting atthe front, either, but who were located in the Reich territory.

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Q Witness, will you next turn to page 28 of this document, which shows how the 39,415 described on page 24 as being members of the Head Offices of the Waffen SS are employed. It starts, SS Head Office, 9,349; Waffen SS men engaged in the Race and Resettlement Office of the SS, 2,689. That was the office headed by Himmler which yesterday you said had nothing to do with the Waffen SS at al And then, third, is SS Economic and Administration Head Office;WVHA that is, is it not--24,019 Waffen SS men. Personal Staff of the Reichsfuehrer SS, 673; SS Personnel Head Office 170; Head Office, SS Law Courts, 599; Office of the SS Obergruppenfuehrer Heisameier, 593; Reich Commissioner for Consolidation of German Folkdom, 304; Reich Commissioner for the Consolidation of the German Folkdom, Die Volksdeutsche Mittelstelle Office, 987, making a total of 39,415 men

That makes it clear, does it not, that the Waffen SS men w re engaged in all this hideous network of Himmler's machinery of terror, does it not?

A I do not believe that is shown by this. Yesterday I described in detail th that the various leading departments did not have a unified supreme command. If for instance, in this case of the various leading departments, members of the Waffen SS appear, then this is to be traced to the fact that those serving there were called up into service with the Waffen SS because their positions had become unnecessary, and they w re thus removed from the reach of the armed forces.

Q All those men were carried on the strength of the Waffen SS; they w re members of the Waffen SS; they wore Waffen SS uniforms, and they were paid by the Waffen SS. That is so, is it not?

A That may well be, but that has some quite different significance, insofar as that did not make them memb rs of the growing organization but, as was often the case in war, they merely donned the uniform and, accordingly, they were paid. If I look at page 28 of this document, I see the SS Economic and Chief Administrative Departments, and I find the figure listed of 24,c91 who w re supposed to be members of the Waffen SS. Then I shall have to say that in connection that we are here probably exclusively concerned with guards in concentration camps, and that shows that these men, as so-called nominal members of the Waffen SS, were attached to the Chief Administrative and Economic Department in reality they had nothing to do with the Waffen SS.

MR ELWYN JONES: If Your Lordship pleases, I submit that the document speaks for itself, and I have no further questions.

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THE PRESIDENT: The Tribunal would like to have translations of these two documents that you have referred to.

MR ELWYN JONES: If Your Lordship please, they will be put in.

COLONEL SMIRNOV: My Lord, I do not wish to subject the witness to a detailed examination, I would like merely for you to allow me to put one single question to him upon a matter which he dealt with yesterday and in connection wi a very short document--a few sentences only. May I do so?

THE PRESIDENT: Yes.

BY COLONEL SMIRNOV:

Q Witness, did I understand you yesterday to say that there were honorary members of the SS?

A Yes.

Q You asserted that their SS function was only given once in order to allow them to wear uniform? Did I correctly understand you?

A Yes.

Q I would like to show the witness a letter to Himmler of one of those peop whom he named yesterday as among the honorary members of the organization. I would like to read this very short document into the record. I quote:

"22 July 1944. Berlin, 37 Wilhelmstrasse .

THE PRESIDENT: Is it 1944 or 1940?

COLONEL SMIRNOV: 1940, my Lord. This a new document which is USSR 512. It was found by the army in the Berlin archives. I quote:

"My dear Himmler: I was highly pleased to learn of my promotion by the Fuehr to the rank of Obergruppenfuehrer of the SS. You may know my attitude to your SS and how greatly delighted I was by their creation, which was the fruit of your work. I shall always consider it a special honor to belong to this proud corps of the Fuehrer, which is of decisive importance for the future of our great German Empire.I remain your faithful friend, Joachim von Ribbentrop."

BY COLONEL SMIRNOV;

Q Tell me, witness, does not the first sentence of the document testify to the fact that those members of the SS whom you called honorary members were actua lly promoted by Himmler according to his estimation of their activity?

A This document, in my opinion, proves something which I tried to describe

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yesterday. I said that it is typical for the honarary leaders that they did not actually come from the SS as such; that is to say, they had not done any duty in the SS for a number of years like all the other men, but at some stage and quite suddenly they were given a high rank and awarded SS uniforms, without in--

Q No, witness, I am asking you something quite different. You are not answering my question. I asked you if it was not a fact that Himmler promoted the so-called honorary members according to his estimation of their activity?

A Yes, that is correct, insofar as it was typical of Himmler's policy that personalities who were holding certain positions of power were awarded the right to wear the SS uniform, and those are the honorary leaders.

COLONEL SMIRNOV: I have no further questions to put to the witness, Mr. President.

DR. SEIDL: As Defense Counsel for Defendant Frank. Mr. President, this morning the Prosecution submitted a document GB 568, D-1926. The subject of that document is the files of the Bavarian Ministry of Justice. It deals with the death of prisoners in protective custody in the concentration camp at Dachau. I ask for permission to read the record Figure 12 of that document, which has not been read by the Prosecution.

As reason for my application, I should like to explain that this id the same document which I applied for six months ago and which could not be found. The portions of this document read by the Prosecution may create the impression that the statement by the defendant Frank in the witness box with reference to this question may not be correct. Figure 12, howeverm shows--

THE PRESIDENT: "hom are you applying on behalf of, Frank?

DR. SEIDL: I make the application on behalf of the defendant Frank.

THE PRESIDENT: I think, on page 10 of the English copy and with the heading (12), the two top paragraphs were read this morning.

DR. SEIDL: Only the two first sentences of paragraph (2) were read. The remaining sentences were not read. The third paragraph was not read either.

THE PRESIDENT: Very well, Dr. Seidl, you may read what you want to read.

DR. SEIDL: I shall then quote under Figure 12 a note for the files concerning Dachau concentration camp.

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The proposal of the State Minister of the Interior that the inquiry pending at the public prosecution at the Provincial Court Munich 11, into the death of the prisoners Handschuch, Frantz and Katz, who were in protective custody, be quashed, was the subject of a debate during the meeting of the Council of Ministers of the 5th Dec 1933. As a result, the State Minister of Justice communicated the following to the undersigned official :

The criminal proceedings regarding the happenings in the Dachau concentration camp are to be continued with all determination. The facts are to be cleared up with the utmost speed. If necessary the provincial police are to be brought in to help. Any attempts to hush up the case must be opposed by the means laid down.

The Provincial Court public prosecutor at the Provincial Court, Munich 11, was instructed, in accordance with the decision of the Council of Ministers, to continue the proceedings immediately and with all energy and to bring about the clearing up of the incidents as soon as possible. He will apply for Court investigations and see to their being completed rapidly--in the case of Franz and Katz immediately, and in the case of Handschunch after the arrival of the files from the political police, who have been requested to return them. He (the public prosecutor) has been instructed to keep the State Ministry of Justice informed about the course of the proceedings and to produce the files with an attached report about the result of the investigation and with the intended further action in the case, after the completion of the investigation. The public prosecutor at the Court of Appeal in Munich has been notified and instructed that he also for his part, is to pay particular attention to the proceedings. The preliminary investigations will probably be conducted by Provincial Court Counsellor Kissner, the district of Dachau being his sphere of competence.

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The liaison man with the Political Police, 1st public prosecutor Stepp, was instructed, according to orders, to communicate the decision of the Council of Ministers to the commander of the Political Police Himmler and to the chief of the Bavarian Political Police.

DR. SEIDL: Thank you, Mr. President.

BY DR. PELCKMANN:

Q Mr. Witness, once again, I shall come back to the document which has just been read out by Mr. Seidl. When this document was put to you, you had pointed out that there was an instruction and an affair which took place very early in 1933. During the interrogation, you, yourself, said in the course of your investigation in later years, hushing-up of matters was discovered by you. It is for that reason I would like to ask you once more, is it correct that you in the course of your investigation in later years and as soon as you came against cases of hushing-up, you fought against such procedure with all determination?

A That was just one of our main activities. We were fighting against those cases of hushing-up which cropped up in the course of proceedings which were being carried out. Repeatedly, in various camps, we were able to have facts ascertained by our commissions indicating that such hushing-up cases did exist, and in just such cases did we hold that guilty party responsible.

Q And in your SS legal system, in 1933, could you fight against such types of crimes ?

A The legal system of the SS, that is to say, a legal system did not exist yet. Responsibility for the carrying out of such criminal proceedings was with the Judge Advocate department of the general legal system as becomes apparent from this document. It was their task to hold the guilty men responsible in such cases.

Q A document has been put before you, D-924, GB 570, which is the case of the horrible shooting of transports

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carried out by the accompanying jobe. You had to define an attitude toward them. I have noticed you had not quite been able to complete your statement because I believe that you, according to your present impression, wanted to say something. Would you like to do that now?

A Yes. I wanted to say that here we are concerned with the transport and that here we are concerned with accompanied doings; what I said about guards was with reference to those guards in camps, that is to say those sentries who were posted on watch towers outside the tent carrying out guard duty, and who, after having completed their guard duty, returned to their billet, men, therefore, who had nothing to do with the goings-on inside the camps. In case of doubt, such transports were carried out by members of the Commandant and the staffs.

Q From the document containing the statistics regarding the strength of the SS on the 30th of June, 1934, and I regret that the document is not visible on my copy, I should like to put to you the figure of 794,000 members of the SS. In 1944, Witness Brill told us yesterday, of higher figures, approximately 900,000 and on up to a million. Since Witness Brill is no longer available, I should like to ask you if the difference may be attributed to the fact that the figure mentioned by Witness Brill also included those who had fallen and therefore, was not an incorrect statement on the part of Witness Brill?

A I have the knowledge necessary to answer the question because from the system, the legal system and my information concerning the strength of the SS, I know that the statement by Witness Brill corresponds to the facts stated by the defense counsel. It is a fact that the statement of Witness Brill includes the losses suffered by the Waffen-SS. Those figures contained in this document here must be increased by that figure which in the course of the war was lost in the way of men and leaders, low-ranking leaders of the Waffen-SS,

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which would then enable you to draw your conclusions regarding the real strength of the Waffen-SS.

Q Page 29 of the same document indicates the various offices. The final total is 39,415 members of the SS. Do you still have the document before you?

A No, unfortunately, I have not.

Q You said that the figure representing the SS Economic and Administrative Leading Department, which was responsible for the administration of the entire concentration camp system was 34,091 persons. Does this mean persons who were carrying out purely clerical work? Were there in fact 24,000 clerical workers in that department? What does that figure mean?

A The SS Economic and Administrative Leading Department was an extremely inflated organization which particularly, as the name indicates, had at its disposal a large organization of firms and industries. All the members were formerly attached to the Administrative Economic Chief Department. In order to make their position clear, that is to say, keep them free from compulsory service in the armed forces, they were drawn into the Waffen-SS as a matter of form.

Q As I understood you earlier, you had also said that the guards should be counted into that figure?

A I had not finished my answer to that question. The guards in the concentration camps and the entire personnel in concentration camps were also in group Dora personnel of the Chief Administrative and Economic Department from the point of view of organization, and in as far as that is concerned, they were exclusively under Pohl's jurisdiction. I assumed that the figure of those guards is included in the figure of 24,091.

Q. Please would you look at the figure of 987 of the SS attached to the Reich Commissioner for the Strengthening of German Nationalism, German National Central Department. That is merely an example, but were these 987 men the only employees of that leading department ?

A. I know from my own experience as SS judge that the department called Reich Commission for the Strengthening of German Nationalism had at its disposal thousands of people who, as I said yesterdya, were civil servants and were in no way connected with the SS. That figure of 987 members of the SS can be explained just as all the other figures can. They became members of the SS for the same reason, that of being medically unfit for active service , and had to be accommodated in an armed competent unit in order not to be called up. No organic ties of these perdons with the organization of the SS existed in any case, but there are merely technical reasons which I have described which led to their being taken over by the SS.

Q. Well then, these statistics which are before us contain approximately 900,000 members of the SS. Is it correct, Mr Witness, that the statistics s whos that the system of concentration camps employed only about 25,900 mem bers of the SS by comparison ?

A. For the time of June 1944, which is the date of this document, that is the correct proportion of concentration camp men in comparison to the total strength of the SS which is clearly evident from this document.

DR. PELCKMANN: May I now submit to your Lordship the report, the document which I unfortunately did not have at my disposal this morning.

BY DR, PELCKMANN:

Q. Mr. witness, I will show it to you. Would you mind having a look You know this document ?

A. Yes, that document became known to me during the last 12 months.

Q. On page 46 of that document there appears tetimony of a detainee whose initials are "E.H." , or who is referred to by those initials. It gives the impression as if that testimony, given before American interrogating authorities, was given --

THE PRESIDENT (Interposing) Is this document in evidence ?

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DR. PELCKMANN: Your Lordship, it isn't in my document book. I am merely putting it to the witness, but if your Lordship desires to see the book, I am submitting it to the Tribunal now.

THE PRESIDENT: Well, what is the book ? I don't know what it is. What is it . Where does it come from ?

DR. PELCKMANN: Well, I beg to be permitted to ask the witness just one question with reference to this.

THE PRESIDENT: No, no, you may not do that until you have told me where the book comes from. Where does the book come from ?

DR. PELCKMANN: It comes from the library here. I just got it from the library. It is an official publication --

THE PRESIDENT: I see.

DR. PELCKMANN: -- of a Colonel Quinn. On page 46 there is the testimony of this detainee, and it would give the impression that that testimony had been given before interrogating authorities of the American army.

BY DR. PELCKMANN:

Q. Can you say anything with reference to that testimony which describes atrocious conditions and crimes ?

A. Yes, I can give you information on that subject.

THE PRESIDENT: Dr. Pelckmann, the document isn't yet in evidence, and you are trying to contradict it. What is the good of contradicting a document which isn't in evidence ? We have never seen it.

DR. PELCKMANN: If your Lordship would hear the witness, then you would discover that I am not trying to contradict the document.

THE PRESIDENT: Do you want to offer the document in evidence then ?

DR. PELCKMANN: First of all, I should like to put it to the witness and then if I get your permission I should like very much to offer it in evidence.

THE PRESIDENT: You offer it in evidence and you are relying upon the document, are you ? Are you relying upon it or are you not ?

DR. PELCKMANN: As far as I can quote from page 46, yes

THE PRESIDENT: If you want to put it in for the purpose of relying on page 46, you can do that.

DR.PELCKMANN: And the supplemental testimony, the entire testiony signe "E.H.".

THE PRESIDENT: Go on.

BY DR. PELCKMANN:

Q. Mr Witness, you understood my question ?

A. Yes.

Q. Please will you answer it.

A. This testimony "E.H." is the testimony of a female detainee, Eleanora Hodis from Auschwitz and was made late in Autumn 1944 under oath before an investigating commission of the Chief Department SS court. It was the institution of proceedings against Graber, head of the Political Department at Auschwitz, and various other participants, proceedings instituted for murder of detainees, and these people were indicted for murder in 2,000 cases

As always, considerable difficulties were put in the way of clearing up the situation. The female detainee, Eleanora Hodis, declared herself willing to assist the investigating commission of the SS court with her testimony, provided the court would guarantee her life. That guarantee was given, and it was possible to get her out of Auschwitz and transferred to Munich. In Munich, at the date given , she submitted the testimony, giving these gruesome details which formed the basis of proceedings instituted against Hoess and many other collaborators. However, because of the collapse the proceedings could not be brought to an end.

Q. Is it correct, therefore, Mr. Witness, that the conditions which are described here existed in the concentration camp of Dachau which give the impression that they had to be included in this book, because after all, this book deals with the concentration camp of Dachau.

A. No, that is not correct. The testimony given by the witness Hodis refers entirely to the atrocious and gruesome conditions at Auschwitz, and has nothing whatever to do with the camp of Dachau.

DR. PELCKMANN: Finally, Your Lordship, I merely beg to be allowed to refer to Document D-959 which has been submitted by the British Delegation.

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THE PRESIDENT: What is the n mber of the other document ?

DR. PELCKMANN: The document SS-Dachau --

THE PRESIDENT: You can give it a number afterwards. Don't delay now.

DR. PELCKMANN: I will merely look up the number of documents I have submitted up to now and then I will give you the number.

When the Prosecution defined their attitude regarding the admissibili of that document, they said that it was regretted that the document could be submitted only so very late. In other words, it ought to have been submitted during the submission of evidence. We are all conscious of that fact. At this stage, with reference to the numerous statements regarding the activity of the Waffen SS in Czechoslovakia, I cannot now define my attitude and I too, regret that the document arrived so very late. However, I believe that it has now been admitted and that the Tribunal is cognizant of it, and I think I ought to have the possibility, therefore of referring to the details which are brought up in support of the case f r the Prosecut because after all I should be given the opportunity to define my attitude and for that purpose I should like to have a certain amount of time.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks that you must go on with your case and that you can't be given further time. The Tribunal has said that they are bound to take judicial notice of the document under Article 21 and this witness has told us he had never heard of the two incide I think, to which counsel drew his attention.

DR. PELCKMANN: I am afraid I didn't understand the translation of the last part of what you said, Mr. President.

THE PRESIDENT: I said that you must go on with your case and that the Tribunal had admitted that document under Article 21, and that with referenc to the two incidents to which counsel for the Prosecution has referred, this witness has said that he has never heard of them.

DR. PELCKMANN: Then I have no further questions to this witness.

DR. GAWLIK (Counsel for the SD): With reference to the document 960, submitted during cross-examination, I have a few questions to put to the witness.

THE PRESIDENT: Which document?

DR. GAWLIK: D-960, Exhibit 569.

BY DR. GAWLIK:

Q Mr Witness, I shall once again have the document shown to you.

(Witness handed document)

Was the SD responsible for dealing with this letter?

A That question must be answered with no. It becomes apparent from the heading of the letter that the letter is addressed to the Security Police and SD at Strassburg. As to the SD, that is a misleading description, as it is merely a usage of lauguage, whereas there is no connection with the organization the SD and it is for that reason that the chief of the Security Police and the

DR. GAWLIK: I have no further questions.

BY THE TRIBUNAL (Mr Biddle):

Q Witness, I want to ask you a few questions about the investigation of the camps. You said your investigation began in 1943. What time in the year 1943 did your investigation begin of the concentration camps?

A Your Lordship, that was during the second half of 1943, as far as I can recollect, either in June or July.

Q It lasted for a little under two years until the end of the war, I suppose?

A Yes.

Q How many camps did you investigate?

A It began in the camp Buchenwald and from there in every camp where there were traces of suspiccion investigating commissions were employed.

Q Witness, listen very carefully and answer the questions. All I asked you was how many camps have you investigated?

A The total investigations were carried out in seven to ten camps but I cannot at this instant give you the exact figure. It was different at various times.

Q You mean seven to ten in all, altogether seven to ten?

A Yes, that is what I meant.

Q Did that include labor training camps also?

H0199-0062

A That is the seven to ten camps were the actual camps, the Stamm camps (mother camps) and from there the investigation spread, from the mother camp where the commission was stationed to the working camp.

Q That included Auschwitz and Dachau?

A In both the concentration camps there were investigation commissions sitting.

Q And Treblinka?

A Treblinka, no, not there your Lordship.

Q Did you investigate any camps outside of Germany?

A Yes, for instance we had a commission in the concentration camp of Herzogenbosch in Holland and there proceedings were carried on against a camp commandant which ended in very severe penaltics.

Q How many investigators were you using at any one time?

A The total of investigating officials may have varied from 30 to 50 peopl In that connection, the majority of these people were not taken from the legal system but were experts from the RSHA, from the Criminal Police Department.

Q Now, how many cases did you recommend for court action?

A Proceedings which ended with a sentence amounted to two hundred up to the end of the war, that is to say, two hundred sentences were passed which were actually carried out.

Q Again I did not ask you that, witness, I said, how many cases did you recommend for action. You made recommendations, did you not?

A Altogether eight hundred cases, eight hundred proceedings were brought about through the investigations.

Q Where did you send your reports? Did you send them directly to the court

A The reports from the investigating commissions went, when the investigation was completed and when the case was ready for prosecution, together with the order to prosecute, to the court itself, which would then run the actual trial and pronounce sentence.

Q and where did copies of the reports go? Did a copy go to the Minister of the Interior?

A No, that I consider out of the question.

Q You mean the Minister of the Interior was not concerned with any of this?

H0199-0063

H0199-0064

A We are here concerned with proceedings executed against members of the SS which, therefore, came under the legal and penal system of the SS and, as far as that is concerned, the Ministry of the Interior was not included.

Q You mean you were only investigating cases that involved the SS?

A All cases were investigated which concerned the camps and these cases referred to SS members and also police members, that is to say, members of the Security Police and they, for the purpose of being sentenced, were brought before the courts.

Q Well now, you have not told us what conditions you found in the camps. You said they were very bad. What were they; what was going on in the camps?

A We discovered through our investigations that in the camps there was some regular system of killing which was in use.

Q And as a result of dicovering that there was a regular system of killing you thought there must be an order to that effect, although you never found it, is that right?

A Yes, Your Lordship. That fact, the fact that an order from above had to be in existence became obvious and became known to us at the end of 1944.

Q Now, why did you think that there was a regular system of killing? Was it because there were so many killings?

A The reason that there were so many cases, yes, and also because it was possible through the cooperation of the concentration camp commandant with the criminal detainees.

Q And how many of those seven to ten camps, how many commandants were involved in these killings?

A In practice this situation was such that practically every commandant was investigated by me and criminal proceedings were started against a total of five commandants.

Q Five out of how many?

A Altogether there were twelve commandants of concentration camps because there were twelve large concentration camps in all, the so-called mother camps.

H0199 - 0065

Q Of the twelve investigated you started proceedings against five, is that right?

A Yes, that is the fact.

Q Now, you said you thought that the killings must be on a large scale. Did you find any evidence of any of the gas chambers which added to your belief that it might be a large-scale operation? You found some evidence of gas chambers?

A The first case when a gas chamber appeared was in the case at Auschwitz, that is the case, your Lordship, that I mentioned before, with reference to Eleanora Hodis.

Q When was it that you got a report that a gas chamber was being used in Auschwitz?

A That was at the end of October or the beginning of November 1944.

Q Did you get figures of the numbers of persons who had died in these ten concentration camps? Did you find out how many persons had died in the different camps? Did you get statistics?

A No, your Lordship, about that we received no information. We had to work for and look for all the material ourselves but we had no survey.

BY THE PRESIDENT:

Q Can you remember the names of the five whom you prosecuted, the five commandants?

A It was the commandant of Buchenwald, Koch; the commandant at Lublin, whose name I cannot at the moment remember and the commandant of the camp Herzogenbosch, whose name I just remember now, a certain Gruenwald.

Further investigations were carried out against the commandant of Oranienburg, Loritz and furthermore, against Keindel the later commandant. These proceedings were discontinued, however, because proof was furnished that at the time when Keindel was camp commandant no killings had occurred.

Q Did you prosecute Hoess?

A At the end of 1944 we started proceedings against Hoess, based on the testimony of the protective custody detainee who had just been mentioned.

H0199-0066

Q What crime did you charge Hoess with?

A May I please make this matter clear. Proceedings against Hoess had not advanced sufficiently to serve an indictment against him. It was still in the process of preliminary investigation. Material had to be collected first.

Q Well, you must have arrived at some decision about Hoess, surely. You must have known what crimes you were investigating. What were the crimes you were investigating against Hoess?

A In the case of Hoess the crime of murder of unknown persons and unknown numbers of persons detained in the concentration camp of Auschwitz.

Q Did you say that you had never heard of the facts which were stated in document EC-168, the document in which Himmler said that the number of deaths in the concentration camps must be reduced?

A I had never seen that document before. It was the first time that I saw it when it was submitted by the defendant's counsel here but in the course of investigations my judges had confirmed to me that instructions of that type had passed through the camps and were actually observed.

Q The document, you remember, said that out of 136,000 persons in concentration camps 70,000 had died.

A I do not know at this moment which document you are referring to.

Q EC-168 is the document and I wanted to know in the course of your investigations whether you found, you ascertained those facts, namely that 70,000 out of 136,000 had died?

A No, such facts were not ascertained

DR. FELCKMANN: I have no questions, your Lordship, but I should like to be permitted to make a suggestion.

This witness antiltheend of the war was only the deputy chief of the chief department of the legal SS system. They had a certain Mr. Breithaupt who in the meantime had died. In the first place the Commissions have referred to this head of the department.

The SS judges who carried out the investigations in the camps, they are stillalive and the man who can answer all these questions which your Lordship and Mr. Biddle have put is the witness Morgen, who can answer them

H0199 - 0067

in detail and if I may permit --

THE PRESIDENT: You have got some more witnesses to call, have you not?

DR. FELCKMANN: During the entire trial I have attempted to make the witness Hinderfeld as superflous as possible. I have succeeded in putting the questions intended for witness Hinderfeld to the other witnesses I have called. If the High Tribunal --

THE PRESIDENT: I do not understand what the object of this speech is.

The witness has been examined, cross examined and re-examined and examined by theTribunal. Now he can retire and you can go on with your case.

DR. FELCKMANN: He can retire?

THE PRESIDENT: Yes, and the Tribunal will adjourn.

(A recess was taken).

THE PRESIDENT: I am told that I may have misunderstood what you were saying to me just before the Tribunal adjourned and that you were asking whether you might be allowed to call some other witness in place of one of theowitnesses you had already applied for. Is that so?

DR. PELCKMANN: Yes.

THE PRESIDENT: Well, whom is it you want to call?

DR. PELCKMANN: Since I know the wish of the Court to shorten the proceedings, I had endeavored to ask the other witnesses the questions which I had intended for the fifth witness. I believe I succeeded in this, but from the interest that the Tribunal took in the question of the investigation of concentration camps I saw that it might be very expedient, and I must say that it would be in the interest of the defense, if the judge, Dr. Morgen, mentioned by the witness Reinecke, might be examined briefly on these matters. I would be in a position to examine this witness immediately and the witness Hinderfeld, who was to be examined, I would not need.

THE PRESIDENT: To examine Dr. Morgen and to give up one of the other witnesses, is that right?

DR. PELCKMANN: Yes.

THE PRESIDENT: Very well, the Tribunal -- he has been called before the Commission I suppose, hasn't he?

DR. PELCKMANN: No, Your Lordship. There are affidavits from him. May I explain briefly why I could not examine him before the Commission? On the first of July the witness arrived here in Nurnberg after I had searched for him for a long time. Up to that time the witness was in Dachau without my being able to find out about it. Onthe first of July I was so busy with the last examinations before the Commission; for example, the witness Eberstein, and the witness Reinecke I examined only on the 5th and 6th of July before the Commission, so that I could not prepare the testimony of this witness. As a result, I was only able, after the end of the activity of the Commission, to prepare affidavits with him. These are, I believe, 65 and 67,

H0199 – 0068

H0199-0069

but these affidavits do not show matters as clearly as if I were to examine him now, Your Lordship, and I suggest that the Tribunal might examine him as briefly as possible.

THE PRESIDENT: Who is the witness you were intending to dispense with?

DR. PELCKMANN: Hinderfeld.

THE PRESIDENT: Mr. Elwyn Jones, what view do the prosecution take of this application?

MR. ELWYN JONES: I suggest, My Lord, that it might be possible for a fuller affidavit to be taken by this witness and that might possibly meet the case. But in view of the fact that the defense are abandoning one witness, I wouldn't press that view, but I do respectfully suggest that, in view of the time that has been taken on this organization, an affidavit might be appropriate, particularly as Dr. Pelckmann has evidence on matters dealing with that part of the case in which the Tribunal is especially interested.

H0199 - 0070

THE PRESIDENT: What do you say to that, Dr. Pelckmann? Couldn't you put the same questions to this witness, and couldn't he incorporate into his affidavit the point you want him to? He already had three affidavits.

DR. PELCKMANN: Certainly, your Lordship. I will only state the following. The Prosecution called a witness, Sievers, in order to support their position and I think that if I want to support the testimony of the witness Reinecke by calling another witness here that might be more or less on the same basis, and by the testimony of the witness, the matters of the concentration camps, the secret sphere of the concentration camps, and the introduction of the court into it might be cleared up much better for the court here than by an affidavit.

THE PRESIDENT: Is this witness of yours, is he here?

DR. PELCKMANN: He is in the witness building.

THE PRESIDENT: Are you proposing to call him next?

DR. PELCKMANN: I would do it. If the Prosecution wishes to call their two witnesses first I could interrupt, your Lordship.

THE PRESIDENT: Dr. Pelckmann, have you any idea as to how long you will be with this witness if you do call him?

DR. PELCKMANN: Forty-five minutes to an hour.

THE PRESIDENT: Well, then, if you wish it, and then you dispense with calling the witness Dr. Hindenberg or whateverhis name is. You may call Dr. Morgen.

DR. PELCKMANN: Thank you, your Lordship. I call the witness Dr. Morgen.

MR. ELWYN JONES: The witness is, of course, in the prison building at the moment. Perhaps it would be more convenient to call the next witness.

THE PRESIDENT: Sievers, isn't it?

MR. ELWYN JONES: No, the witness Izrael Eisenberg, whose affidavit is document number D-939, GB-563.

THE PRESIDENT: Eisenberg.

MR. ELWYN JONES: Yes, your Lordship, Eisenberg.

THE PRESIDENT: Marshal, will you bring in Eisenberg and send for Morgen.

Will you state your full name, please.

H0199-0071

THE WITNESS: Israel Eisenberg.

THE PRESIDENT: Will you repeatthis oath after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY MR. ELWYN JONES:

Q Witness -- I just want to put the statement to the witness, my Lord -- witness, you are Israel Eisenberg of 203 Reinsburg Strasse, Stuttgar

A Yes.

Q Will you look at the affidavit D-939, exhibit GB-563. Just look at it. Is that your statement?

A Yes, I signed it.

Q And is it true?

A Yes, it is.

Q Witness, I notice you have a scar on your face. Will you tell the Tribunal how it was caused?

A Yes, I can tell the Tribunal. In 1942, at the end of October 1942 I was shot together with many thousands of Jews. The bullets hit my left cheek and I was lying there from 9:30 until 4:30 in the morning. At 4:30 in the morning, when people were cleaning the corpses, I was taken with another man whose name was Stagel. Only thetwo of us survived.

Q And how many were killed on that occasion?

A It was 9:30 in the evening and there were groups composed of 1,000 and more people who were conducted to a field and I was among them. They shot at us and I was lying on the field until 4:30 in the morning.

Q Now, just after this last question, who were the killers?

A The killers were SS men in SS uniforms.

MR. ELWYN JONES: I have no further questions, my Lord.

H0199 - 0072

BY DR. PELCKMANN :

Q Witness, I know your affidavit --- As far as I can see from it, you were in Lu[illegible]n, at first in Lublin. Were there other SS men there, too, whom you know?

A Yes, I know many of them. I was working in the SS staff as a fitter-electrician and I came there very frequently in order to make electrical installations there.

Q In your affidavit you have given some names --- Riedel Mohrwinkel and Schrammek.

A Yes, I knew them personally.

Q They were on this staff?

A Yes, they were on the staff and the staff was located on Warschau Street 21.

Q Do you also know exactly the ranks which you mentioned in your affidavit as belonging to those persons?

A Yes, I know them,

Q What, for example, was Riedel?

A Riedel was Unterscharfuehrer.

Q And Mohrwinkel?

A At first he was a Rottenfuehrer and as a result of this action he was promoted to Unterscharfuehrer.

Q You just said that Riedel was an Unterscharfuehrer. In your affidavit you said he was an Oberscharfuehrer.

A He had white threads on his epaulettes.

Q Now, I show you a picture. Please tell me whether that is Riedel or Mohrwinkel and what is the rank of this SS man?

A This man is neither Mohrwinkel nor Riedel.

Q And what is his rank?

A It seems to me that he is a Rottenfuehrer because there is nothing on his epaulettes and only a patch on his sleeve

H0199 - 0073

Q Thank you. Now, I shall show you another picture. If I remember the other picture correctly, this would also have to be a rottenfuehrer?

A I cannot tell with certainty but the other one had on his epaulettes a white thread all round and here I see a double thread in this photo.

Q Thank you witness.

DR PELCKMANN : I have no more questions, your Lordship.

THE PRESIDENT : The witness can retire.

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DR. PELCKMANN : For the information of the High Tribunal. I shoul like to say that these photographs came from the book on the Warsaw atrocities, submitted by the prosecution yesterday, which was in Polish and the photographs are not men of the Waffen SS at all but p licemen. The witness did not notice that.

THE PRESIDENT : The witness said he had never seen them before. The witness said he had never seen the man before. We don't need to argue about it. Now, who is your next witness?

DR. PELCKMANN : May I submit these pictures to the Tribunal? They are in the Polish book, in Polish, on pages Roman numberal one and eleven.

THE PRESIDENT : You can certainly put them in if you think it worthwhile; but, now, will you get on with your case. Is there another witness that you are going to call before Dr. Morgen?

DR. PELCKMANN : Yes; the witness Sievers was called by the prosecution, your Lordship.

H0199-0074

THE PRESIDENT : Well, is he here?

THE MARSHALL : Yes, Mr. President.

THE PRESIDENT : Well, call him then.

THE MARSHAL: Both witnesses are here now, your Honor, both Sievers and Morgan.

THE PRESIDENT : We will go on with Sievers now.

MR. ELWYN JONES : You did indicate, my Lord, it might be more convenient for Dr. Pelckmann to finish with his witness before Dr. Sievers.

THE PRESIDENT : I don't think you mind. Call Dr. Morgan then.

GEORG KONRAD MORGEN, a witness, took the stand and testifies as follows :

BY THE PRESIDENT :

Q Will you state your full name please?

A Georg Konrad Morgen.

Q Will yoh repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT : You may sit down.

DIRECT EXAMINATION

BY DR. PELCKMANN :

Q Witness, because of the significance of your testimony I will first ask you in detail about your person. Were you an SS Sturmfuehrer of the Reserve?

A Yes.

Q Please speak slowly and wait a little after every question. What training did you have?

H0199 -0075

A I studied at the University of Frankfurt on the Main --Rome, Berlin; at the academy at the Hague and the Institute for World Economy and sea traffic in Kiel. I passed the first examination. Before the war I was a judge at the Landgericht in Stettin.

Q Were you a specialist and criminologist in the penal code?

A No, I had specialised in International Law but later, during the war, I had to deal with criminal matters and had special achievements in that field.

Q How did you come to the SS?

A I was taken over involuntarily into the General SS. In 1933, I belonged to the group for youth physical training which was taken over as a body. I was drafted at the beginning of the war.

Q What rank did you have?

A In the General SS I was Staffelanwaerter and Rotten-fuehrer. In the Waffen SS I was Sturmfuehrer of the Reserve.

A What example can you give that you did not believe you were joining a conspiracy when you joined the SS--- very briefly, please.

A In 1936 I published a book on war propaganda and the prevention of war. This book, at the time of a threat of war, showed ways and means to prevent war. The book was examined by the Party and published. I could not assume that the SS or the policy of the Reich government were directed towards war.

Q How did you come to the investigations in the concen-tration camp .

H0199 – 0076

A At the order of the Reichsfuehrer SS, because of my special abilities in the criminal field, I was appointed to the Reich Criminal Police Office in Berlin. Shortly after I arrived there, I was given an assignment to investigate the case of corruption in Weimar. The accused was a member of the concentration camp of Weimar-- Buchenwald. The investigation soon led to the person of the former Commandant Koch, through many of his subordinates and in addition, they affected a number of the other concentration camps. As these investigations became more extensive, I received powers from the Reichsfuehrer SS to be generally active in such investigations in concentration camps.

Q Why was the special authorization from the Reichsfuehrer necessary?

A For the guards of the concentration camps, the SS and Police Courts were competent; that is, the courts in whose district the concentration camp was located. For that reason, because of its limited jurisdiction, the Court was not able to have any effect beyond its district, and on these investigations it was important to be able to work in many districts; in addition, it was necessary to use specialists in the criminal field; that is, the criminal police but the criminal police could not carry on any investigation directly among the troops and only through the combination of juridical and criminal police activity was it possible to clear this up and for this purpose, I was given this special authorization from the Reichsfuehrer.

H0199-0077

Q Now, how extensive did this investigation become? You can be brief because the witness Reinecke answered this point in part.

A I investigated Buchenwald, Auschwitz, Sachsenhausen, Oranienburg, Herzogenbosch, Krakow, Plaschow, Warsaw, and the concentration camp Dachau. After others.

Q How many cases did you investigate? How many death sentences were passed?

A I investigated about 800 cases, that is, about 800 documents, and one document affected several cases. About 200 were tried during my activity. Five Commandants of concentratio. camps were arrested by me personally. Two were shot after being tried.

Q Were shot?

A Yes. Aside from the Commandants, there were other different sentences against Fuehrers and Unterfuehrers.

Q Did you yourself have an opportunity of visiting inside and seeing the conditions of the concentration camps?

A Yes, I had the approval to visit the concentration camps myself. Only a very few persons had this permission. Before the beginning of the investigations, I examined the concentration camps in question in all its details, and especially the important arrangements. I visited them repeatedly. I paid surprise visits. I was in Buchenwald for 8 months. I lived there. I was in Dachau for one or two months.

Q So many visitors at concentration camps say they were deceived. Do you consider it possible that you too were a victim of such deceit?

A I was not a visitor to a concentration camp. I had settled down there for a permanent residence. During such a long time it is impossible to be deceived. In addition, the Commissioners from the Reichcommissar office worked under my instructions. I placed them directly in the Concentration Camps. In addition, I want to say that in spite of these very intensive

H0199 - 0078

efforts, I was not able to learn of all crimes. But I believe that there was no deception in regard to what I did learn.

Q Did you gain the impression, and at what time, that the Concentration Camps were sites for the extermination of human beings?

A I did not gain this impression. A Concentration Camp is not a site for the extermination of human beings. I must say that the first visit to a Concentration Camp, the first one was at Buchenwald, was a great surprise to me. The Camp is on a wooded heights with an excellent view. The installations are clean and thoroughly painted. There is grass and flowers. The prisoners were healthy, normally fed, and brown.

THE PRESIDENT: When are you speaking of?

A I am speaking of the beginning of my investigation in July 1943.

Q Waht crimes? --you may continue - please be more brief

A The installations of the Camp were in good order, especially the hospital. The Commandant was ordered to provide the prisoners with an existance worthy of a human being. They had regular meal service. They had a large book store, even with foreign books. They had variety shows, motion pictures, sporting events. They even had a Bordello. All the other camps were similar to Buchenwald.

THE PRESIDENT: What did you say they even had?

A A brothel.

Q What crimes did you learn about?

A I said before, the investigations were based on a suspicion of corruption. In time however, I had to ascertain that killings had also occurred.

Q How did you reach this suspicion that killings had occurred?

A I learned that the basis for the corruption was the assignment of Jews to the Camps after the action in 1938. I had to learn all possible facts about this action. I learned that prisoners of whom it would be assumed that they might know some-

H0199-0079

thing about these signs of corruption, had in the majority died. This frequency of killings was noticeable particularly because other prisoners who were not in any key positions were in Buchenwald for years in the best of health and were still there. So that it was rather suspicious that certain prisoners who would have been witnesses had died. I examined the files of these deaths of prisoners. The files did not then give rise to suspicion of illegal killing. The dates of deaths were years apart and different causes of death were given. But I noticed that the majority of these prisoners who had died, shortly before their death had been put in the hospital or under arrest. This aroused my suspicion that in this place murders of prisoners might have occurred. Thereupon I appointed a special officer, whose sole task was to examine the suspicions and rumors about this killing of prisoners. He was a very energetic criminal official, but he had to report again and again that he had not the least evidence of this suspicion of mine. After two weeks of completely unsuccessful activity, the criminal official refused to continue and asked me ironically whether I myself believed that such rumors of killing of prisoners could be true. Only by accident, much later, was I put on the trail. I noticed that in the case of certain prisoners in the books of the Kommandantur of the prison, and in the books at the hospital, they had been carried in both books. In the prison book for example, it said, "Dismissal 9 of May 12 o'clock". In the register of the hospital, "Patient died 9 May 9:15 AM". I said to myself, "This prisoner cannot be in the Kommandantur Prison and at the same time a patient in the hospital." Wrong entries must have been made here. I concentrated my efforts on this and I succeeded in finding out about this system, a system of Kommandant Koch.

H0199-0080

The prisoners were taken to a secret place and were killed there, mostly in a cell of the Kommandantur prison and witness reports and death certificates were prepared for them. They were made out so cleverly that any unsuspecting reader of the document wouldget the impression that the prisoner concerned had actually been treated and had died of the serious illness, which it indicated.

Q Then what did you do after learning of these facts?

A I found out that the doctor at Buchenwald, SS Hauptsturmfuehrer, Dr. Westhofen, was responsible and I had him dismissed. I informed my investigating commission of these forgeries and directed their attention to investigating systematically in the concentration camp and investigating in other concentration camps as well if such murders had taken place. We learned at the time of the investigation, and I am speaking of Buchenwald in 1943, that in the concentration camps of Sachsenhausen and Dachau no such killings occurred, as far as it was humanly possible to learn. In the other concentration camps, however, such cases were found. The persons believed to be guilty were accused, arrested and charged.

Q Why was this not done earlier?

A I have already said that the actions were so clever that it was not possible to recognize them earlier. Above all, there was no possibility to clear up the matter and then this was always done without witnesses. These cases could have been investigated by the SS court and they were investigated. Every unnatural death of a prisoner was reported by telety pe to the central agency. In addition, the court official in the camp had to go to the site immediately, question the witnesses, photographs had to be made of the scene and it was the rule that an autopsy had to take place of every such record of unnatural deaths, or any death suspected of being unnatural. This was sent regularly to the SS and police court, but as I have already said, these reports were so clever and the files were in such good order, that even an expert could not have suspected an illegal killing. Of course, sentences against members of the concentration camp personnel were constantly carried out and even death sentences. But, this state of crime seemed to be at the regular rate of 0.5% to 3%. If nothing at all had been reported to the SS court of the concentration camps, they would have been suspicious.

H0199 - 0081

They would also have been suspicious, of course, if too many such reports were made, but it was a normal average and one could have no suspicion that in the concentration there were such dangerous crimes. Only through my investigation, which I said was caused by accident, did we receive insight into the true state of affairs.

Q How did you come on the trail of mass destruction? You have just spoken of individual destruction.

A I came on the trail of mass destruction also by accident. At the end of 1943, I received two trails, one led to Lublin and one to Auschwitz.

Q First please describe the Lublin trail.

A One day I received a report from the Kommandant of the Security Police in Lublin. He reported that in his district in a Jewish labor camp a Jewish wedding had taken place. There had been 1,100 invited guests at this wedding.

As I said, 1,100 guests participated in this Jewish wedding. The dinner course was quite extraordinary and there was a large consumption of food and alcohol. Among these Jews were members of the SS troop, who took part in this function. This report, which came in months later, said the Kommandant of the Security Police was suspicious and there had been a horrible accident. This was my impression as well and there was no indication of the corruption and crime. With this intention, I went to Lublin and I reported to the Security Police there. Nothing was known about it, but I was told there was a possibility that this happened at a camp near Lublin. I found out the name of the Kommandant of the camp and learned that it was the Kriminalkommissar Wirt.

I asked Wirt whether this report was true and what it meant. To my great astonishment, Wirt admitted it. I asked him why he permitted members of his command to do this and Wirt revealed to me that on behalf of the Fuehrer he had to carry out the destruction of Jews.

Q Please go on, witness.

A I asked Wirt what this had to do with the Jewish wedding. Then, Wirt described the method by which he carried out the extermination of Jews and he said as follows: "One has to fight the Jews with their own methods and one has to shit on them."

H0199 - 0082

Wirt built up an enormous destruction manouver. He selected Jews as service column leaders, then these Jews brought along other Jews, who worked under them. With these smaller or medium sized details of Jews, he began to build up the extermination camp. He extended this staff of Jews and with these Jews, Wirt carried out the extermination of the Jews.

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Wirt said that he had four exter ination camps and about 5,000 Jews were working at the extermination of Jews and the seizure of Jewish property. In order to win Jews for this business of extermination and plundering of their fellow Jews, Wirt gave them freedom and, so to speak, gave them a financial part in the exploitation of the victims. As a result of this attitude, this Jewish wedding had come about.

Then I asked Wirt how he killed Jews with these Jewish agents of his. Wirt described the whole procedure that went off like a film every time. The extermination camps were in the East of the Government General and in big forests or uninhabited lands. They were built up like a village. The inhabitants expected to come into a city or settlement. The train drove into what looked like a railroad station. The operating personnel and the train personnel left the area. Then the cars were opened and the Jews got out. They were surrounded by the Jewish details, and Kriminal Kommissar Wirt or one of his representatives made a speech. He said, "Jews, you were brought here to be resettled, but before we organize this future Jewish state, you must of course learn how to work. You must pick up a new occupation. You will learn that here. First, every one must take off his clothes so that your clothes can be disinfected and you can be bathed so that no epidemics will be brought into the camp."

After he had found such calming words for his victims, they took up the road to death. Men and women were separated. At the first station, one had to give his hat; at the next one, his coat, his collar, his shirt, down to his shoes and socks. These places were set up like checkrooms, and the person was given a check at each one so that the people believed that they would get their things back. The other Jews had to accept the things and hurry up the new arrivals so that they could not have time to think. The whole thing was like an assembly line. At the last stop they reached a big room. It was said that this was the bath. When the last one was in, the doors were shut and the gas was let into the room.

As soon as death had set in, the ventilators were started so that the air could be breathed again. The doors were opened, and the Jewish workers removed the bodies. By means of a special procedure which Wirt had invented, they were burned in the open air without the use of fuel.

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Q Was Wirt a member of the SS?

A No, he was Kriminal Kommissar in Stuttgart.

Q Did you ask Wirt how he arrived at this devilish system?

Q When Wirt took over the extermination of the Jews, he was already a specialist in mass destruction of human beings. He had previously carried out the task of removing the incurably insane. On behalf of the Fuehrer himself, through the Chancellory of the Fuehrer, at the beginning of the war he had set up a detail, probably from agents and spies of the criminal police. Wirt described how he went about carrying out this assignment. He received no aid, no instructions, but had to do it all by himself. He was given an institution in Brandenburg. There he undertook his experiments. After much consideration and many individual experiments, he came to his later system, and then this system was used on a large scale.

A commission of doctors previously investigated the files, and those insane who were considered to be incurable were put on a separate list. Then the institution one day was told to send these patients to another institution. From this institution the patient was transferred again, often more than once. Finally he came to Wirt's institution. There he was killed by gas and cremated.

This system which deceived the institutions and made them unknowing accomplices, this system that he worked out with very few assistants for being able to exterminate large numbers of people, this system Wirt now employed with a few improvements in the extermination of Jews. He was also given the assignment by the Fuehrer's Chancellory to exterminate the Jews.

Q The statements which Wirt made must have surpassed human imagination. Did you believe Wirt?

A At first it seemed completely fantastic to me, but in Lublin I saw one of his camps. It was a camp in which I found part of the property of his victims. From the number of them -- there were a great number of watches piled up -- I had to realize that atrocitirs were being committed here. I was shown the valuables. I never saw so much money, especially foreign money -- all kinds, from all over the world. In addition, there were gold bars.

I also saw that the headquarters fromwhich Wirt directed his operations was very small and inconspicuous. He had only three or four people working

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there for him. I spoke to them too. I watched his courier arrive from Berlin, Tiergarten Strasse, the Fuehrer's Chancellory. I investigated Wirt's mail.

Of course, I did not do all of this at this first visit. I was there frequently. I prosecuted Wirt up to his death.

Q Did Wirt give you names of people who were connected with this operation?

A Not many names were mentioned for the simple reason that the number of those who participated could be counted on one's fingers. I remember one name: I think the name was Blankenburg, in Berlin.

THE PRESIDENT: Well, we had better adjourn now. We have already been 50 minutes.

(The Tribunal adjourned until 1000 hours, 8 August 1946).